



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## LOK SABHA

The following Bills were introduced in Lok Sabha on 23th July, 2018:—

### BILL NO. 119 OF 2018

*A Bill to establish and incorporate a National Sports University in the State of Manipur, a specialised University first of its kind, to promote sports education in the areas of sports sciences, sports technology, sports management and sports coaching besides functioning as the national training centre for select sports disciplines by adopting best international practices and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the National Sports University Act, 2018.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 31st day of May, 2018.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “Academic and Activity Council” means the Academic and Activity Council of the University;

(b) “academic staff” means such categories of staff as are designated as academic staff by the Ordinances;

(c) “Board of Sports Studies” means the Board of Sports Studies of a Department of the University;

(d) “Chancellor” means the Chancellor of the University;

(e) “College” means a college or other academic institution established or maintained by, or admitted to the privileges of, the University;

(f) “Court” means the Court of the University;

(g) “Department” means a Department of Studies and includes a Centre of Studies;

(h) “employee” means any person appointed by the University and includes teachers and other staff of the University;

(i) “Executive Council” means the Executive Council of the University;

(j) “Finance Committee” means the Finance Committee of the University;

(k) “Fund” means the University Fund referred to in section 30;

(l) “Hall” means a unit of residence or of corporate life for the students of the University, or of an Outlying Campus or of a College or an Institution, maintained by the University;

(m) “Head of the Department” means the head of any teaching department of the University;

(n) “Institution” means an academic institution, not being a College, maintained by, or admitted to the privileges of, the University;

(o) “Outlying Campus” means the campus of the University as may be established by it at any place within or outside India;

(p) “Principal” means the Head of a College or an Institution maintained by the University and includes, where there is no Principal, the person for the time being duly appointed to act as Principal, and in the absence of the Principal, or the acting Principal, a Vice-Principal duly appointed as such;

(q) “Regional Centre” means a centre established or maintained by the University for the purpose of coordinating and supervising the work of Study Centres in any region and for performing such other functions as may be conferred on such centre by the Executive Council;

(r) “Regulations” means the regulations made by any authority of the University under this Act for the time being in force;

(s) “School” means a School of Studies of the University;

(t) “section” means the section of this Act;

(u) “State” includes a Union territory;

(v) “Statutes” and “Ordinances” mean, respectively, the Statutes and the Ordinances of the University for the time being in force;

(w) “Study Centre” means a centre established, maintained or recognised by the University for the purpose of advising, counselling, training or for rendering any other assistance required by the students;

(x) “teachers of the University” means Professors, Associate Professors, Assistant Professors and such other persons as may be appointed for imparting instructions, training or conducting research in the University or in any Outlying Campus, College or Institution or Regional Centres and Study Centres maintained by the University and are designated as teachers by the Ordinances;

(y) “University” means the National Sports University established and incorporated as a University under this Act;

(z) “Vice-Chancellor” means the Vice-Chancellor of the University.

3. (1) There shall be established a University by the name of “National Sports University”.

Establishment  
of  
University.

(2) The headquarters of the University shall be in the State of Manipur and it may establish or maintain Outlying Campuses, Colleges, Regional Centres and Study Centres at such other places in India as it may deem fit:

Provided that the University may, with the prior approval of the Central Government, also establish Outlying Campuses and Study Centres outside India.

(3) The first Chancellor, the first Vice-Chancellor and the first members of the Court, the Executive Council and the Academic and Activity Council, and all such persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of “National Sports University”.

(4) The University shall have perpetual succession and a common seal, and shall sue and be sued by the said name.

4. The objects of the University shall be—

Objects of  
University.

(i) to evolve as an institute of advanced study in the field of physical education and sports sciences;

(ii) to provide for research and development and dissemination of knowledge in physical education and sports sciences by providing specially designed academic and training programmes in various areas of physical education and sports sciences and training in advanced technologies of sports;

(iii) to strengthen physical education and sports training programmes to promote sports including traditional and tribal sports and games;

(iv) to establish centres and institutions of excellence for imparting state of the art educational training and research in the fields of physical education and sports sciences, sports technology and high performance training for all sports and games;

(v) to provide professional and academic leadership to other institutions in the field of physical education and sports sciences;

(vi) to provide vocational guidance and placement services in physical education, sports sciences, sports medicine, sports technology and other related fields;

(vii) to generate capabilities for the development of knowledge, skills and competences at various levels in the fields of physical education and sports sciences, sports technology and high performance training for all sports and games;

(viii) to generate capabilities to provide infrastructure of international standard for education, training and research in the areas related to physical education and sports sciences, sports technology and high performance training for all sports and games;

(ix) to prepare highly qualified professionals in the fields of physical education and sports sciences, sports technology and high performance training for all sports and games;

(x) to serve as a Centre of Excellence for the elite and other talented sportspersons of all sports and games and innovation in physical education and sports sciences and to carry out, endorse and propagate research;

(xi) to function as a leading resource centre for knowledge and development in the areas of physical education and sports sciences, sports technology and high performance training for all sports and games;

(xii) to provide international collaboration in the fields of physical education and sports sciences, sports technology and high performance training for all sports and games;

(xiii) to establish close linkage with sports academies, schools, colleges, sports and recreation clubs, sports associations and international federations for the purpose of teaching, training and research in physical education and sports sciences, sports technology and high performance training for all sports and games;

(xiv) to train talented athletes so as to help them to evolve into elite athletes of international level;

(xv) to make India become a sporting power;

(xvi) such other objects, not inconsistent with the provisions of this Act, which the Central Government may, by notification in the Official Gazette, specify in this behalf.

Powers and  
functions of  
University.

**5. (1)** The University shall have the following powers and functions, namely:—

(i) to plan, design, develop and prescribe courses of study and conduct appropriate academic and training programmes in physical education and sports sciences including sports technology and to provide for instruction and training in such branches of learning as the University may, from time to time, determine and to make provisions for research and for the advancement and dissemination of knowledge;

(ii) to grant, subject to such conditions as the University may determine, diplomas or certificates to, and confer degrees or other academic distinctions on, persons, on the basis of examinations, evaluation or any method of testing, and to withdraw any such certificates, diplomas, degrees or other academic distinctions for good and sufficient cause;

(iii) to provide opportunities to the students of the University to participate in the sports tournaments and competitions in co-ordination with established International Sports Federations, National Sports Federations, Indian Olympic Association and Association of Indian Universities;

(iv) to have liaison or membership with various international professional organisations or bodies;

(v) to establish and maintain, with the prior approval of the Central Government, such Outlying Campuses, Regional Centres, specialised laboratories or other units for research, instruction and training as are, in the opinion of the University, necessary for the furtherance of its objects;

(vi) to establish, maintain or recognise Study Centres in the manner laid down by the Statutes;

(vii) to establish and maintain Colleges, Institutions and Halls;

(viii) to confer honorary degrees or other distinctions in the manner prescribed by the Statutes;

(ix) to institute Principalships, Professorships, Associate Professorships, Assistant Professorships and other teaching or academic positions, required by the University and to appoint persons to such Principalships, Professorships, Associate Professorships, Assistant Professorships or other teaching or academic positions;

(x) to appoint persons working in any University or academic institution, including those located outside the country, as teachers of the University for a specified period;

(xi) to create administrative, ministerial and other posts and to make appointments thereto;

(xii) to co-operate or collaborate or associate with any other University or authority or institution of higher learning, including those located outside the country, in such manner and for such purposes as the University, may determine;

(xiii) to provide facilities through the distance education system to such persons and in such manner as may be prescribed by the Statutes;

(xiv) to institute and award fellowships, scholarships, studentship, medals and prizes for raising academic standards and research;

(xv) to organise and to undertake extramural studies, training and extension services;

(xvi) to make provision for research and advisory services and for that purpose, to enter into such arrangements with other institutions, industrial or other organisations, as the University may deem necessary;

(xvii) to organise and conduct refresher courses, workshops, seminars and other programmes for teachers, evaluators, other academic staff and students;

(xviii) to appoint on contract or otherwise visiting Professors, Emeritus Professors, Consultants and such other persons who may contribute to the advancement of the objects of the University;

(xix) to determine standards of admission to the University, which may include examination, evaluation or any other method of testing;

(xx) to demand and receive payment of fees and other charges;

(xxi) to supervise the residences of the students of the University and to make arrangements for promoting their health and general welfare;

(xxii) to lay down conditions of service of all categories of employees, including their code of conduct;

(xxiii) to regulate and enforce discipline among the students and the employees, and to take such disciplinary measures in this regard as may be deemed by the University to be necessary;

(xxiv) to make arrangements for promoting the health and general welfare of the employees;

(xxv) to receive benefactions, donations and gifts and to acquire, hold and manage, and to dispose of, with the previous approval of the Central Government, any property, movable or immovable, including trust and endowment properties, for the purposes of the University;

(xxvi) to borrow, with the previous approval of the Central Government, on the security of the property of the University, money for the purposes of the University;

(xxvii) to conduct innovative experiments and promote new methods and technologies in the fields of physical education, sports sciences, sports medicine, sports technology, sports management and other related fields;

(xxviii) to purchase or to take on lease any land or building or sports complex or sports infrastructure and scientific sports research equipment or indoor stadium or works which may be necessary or convenient for the purposes of the University, on such terms and conditions as it may think fit and proper and to construct, alter and maintain any such building or work;

(xxix) to start any new allied course or research programme or diploma or training programme and discontinue any course or training programme;

(xxx) to invest the funds of the University in or upon such securities and transpose any investment from time to time in such manner as it may deem fit in the interest of the University;

(xxxi) to execute conveyances regarding transfers, mortgages, leases, licenses, agreements and other conveyances in respect of the property, movable or immovable, including Government securities, belonging to the University or to be acquired for the purposes of the University, after taking prior permission of the Central Government;

(xxxii) to act as a technical advisory body to Government of India and other National Organisations, State Governments and National Sports Federations on all matters related to sports;

(xxxiii) to provide training, coaching and other back up to high level sports persons for achieving success in different national and international sports competitions;

(xxxiv) to give effect to the procedures and standards provided under the Khelo India Scheme or the National Sports Talent Search and Identification Scheme;

(xxxv) to confer autonomous status on a College or an Institution in the manner laid down by the Statutes;

(xxxvi) to admit to its privileges any College or Institution in or outside India subject to such conditions as may be laid down by the Statutes:

Provided that no College or Institution shall be so admitted except with the prior approval of the Central Government;

(xxxvii) to provide for the preparation of instructional and training materials, including films, cassettes, tapes, video cassettes and other software;

(xxxviii) to recognise persons for imparting instructions in any College or Institution admitted to the privileges of the University; and

(xxxix) to do all such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of its objects.

(2) The University shall in the exercise of its powers have jurisdiction over the whole of India and to the Outlying Campuses and Study Centres outside India.

(3) In exercising its powers referred to in sub-section (1), it shall be the endeavour of the University to maintain an all-India character and high standards of teaching, training and research, and the University shall, among other measures which may be necessary for the said purpose, take, in particular, the following measures, namely:—

(i) admissions of students and recruitment of faculty shall be made on all-India basis through appropriate procedures approved by the Executive Council of the University;

(ii) foreign students shall be admitted by the University to various courses and programmes as per the policy and schemes of the Government of India and the procedure approved by the Executive Council of the National Sports University;

(iii) inter-University mobility of faculty with portable pension scheme benefits, if any, and protection of seniority shall be encouraged;

(iv) semester system, continuous evaluation and choice-based credit system shall be introduced and the University shall enter into agreement with other Universities and academic institutions for credit transfer and joint degree programmes;

(v) innovative courses and programmes of studies shall be introduced with a provision for periodic review and restructuring;

(vi) active participation of students shall be ensured in all academic activities of the University, including evaluation of teachers;

(vii) accreditation shall be obtained from the National Assessment and Accreditation Council or any other accrediting agency at the national level; and

(viii) e-governance shall be introduced with effective management information.

6. The University shall be open to persons of any sex and of whatever caste, creed, race or class, and it shall not be lawful for the University to adopt or impose on any person, any test whatsoever of religious belief or profession in order to entitle such person to be appointed as a teacher of the University or to hold any other office therein or to be admitted as a student in the University or to graduate thereat or to enjoy or exercise any privilege thereof:

University to be open to all caste, creed, race or class.

Provided that nothing in this section shall be deemed to prevent the University from making special provisions for the employment or admission of women, persons with disabilities or of persons belonging to the weaker sections of the society and, in particular, of the Scheduled Castes, the Scheduled Tribes and the other socially and educationally backward classes of citizens:

Provided further that no such special provision shall be made on the ground of domicile.

7. (1) The Central Government may, from time to time, appoint one or more persons to review the work and progress of the University, including Outlying Campuses, Colleges, Institutions, Regional Centres and Study Centres maintained by it, and to submit a report thereon; and upon receipt of that report, the Central Government may, after obtaining the views of the Executive Council thereon through the Vice-Chancellor, take such action and issue such directions, as it considers necessary, in respect of any of the matters dealt with in the report and the University shall abide by such action and be bound to comply with such directions.

Central Government to review work and progress of University.

(2) The Central Government shall have the right to cause an inspection to be made by such person or persons, as it may direct, of the University, its buildings, sports complexes, libraries, laboratories and equipment, and of any Outlying Campus or College or Institution or Regional Centres or Study Centres maintained by the University; and also of the examinations, teaching and other work conducted or done by the University and to cause an inquiry to be made in like manner in respect of any matter connected with the administration or finances of the University, Colleges or Institutions or Regional Centres or Study Centres.

(3) The Central Government shall, in every matter referred to in sub-section (2), give notice of its intention to cause an inspection or inquiry to be made, to the University, and the University shall have the right to make such representations to the Central Government, as it may consider necessary.

(4) After considering the representations, if any, made by the University, the Central Government may cause to be made such inspection or inquiry as is referred to in sub-section (3).

(5) Where any inspection or inquiry has been caused to be made by the Central Government, the University shall be entitled to appoint a representative, who shall have the right to be present and be heard at such inspection or inquiry.

(6) The Central Government may, if the inspection or inquiry is made in respect of the University or any Outlying Campus or College or Institution or Regional Centre or Study Centre established or maintained by it, address the Vice-Chancellor with reference to the result of such inspection or inquiry together with such views and advice with regard to the action to be taken thereon, as the Central Government may be pleased to offer, and on receipt of address made by the Central Government, the Vice-Chancellor shall communicate to the Executive Council the views of the Central Government with such advice as the Central Government may offer upon the action to be taken thereon.

(7) The Executive Council shall communicate through the Vice-Chancellor to the Central Government such action, if any, as it proposes to take or has been taken upon the result of such inspection or inquiry.



(8) Where, the Executive Council does not, within a reasonable time, take action to the satisfaction of the Central Government, it may, after considering any explanation furnished or representation made by the Executive Council, issue such directions, as it may think fit, and the Executive Council shall comply with such directions.

(9) Without prejudice to the foregoing provisions of this section, the Central Government may, by order in writing, annul any proceeding of the University which is not in conformity with the provisions of this Act or the Statutes or the Ordinances:

Provided that before making any such order, the Central Government shall call upon the Vice-Chancellor to show cause why such an order should not be made, and, if any cause is shown within a reasonable time, it shall consider the same.

(10) The Central Government shall have such other powers, in respect of the affairs of the University, as may be prescribed by the Statutes.

Officers of  
University.

**8.** The following shall be the officers of the University, namely:—

(a) the Chancellor;

(b) the Vice-Chancellor;

(c) the Deans of Schools;

(d) the Registrar;

(e) the Finance Officer;

(f) the Controller of Examinations;

(g) the Librarian; and

(h) such other officers as may be declared by the Statutes to be the officers of the University.

Chancellor.

**9.** (1) The Chancellor shall be appointed by the Central Government in such manner as may be prescribed by the Statutes.

(2) The Chancellor shall, by virtue of his office, be the head of the University and shall, if present, preside at the Convocations of the University held for conferring degrees and other ceremonial functions and also the meetings of the Court.

Vice-  
Chancellor.

**10.** (1) The Vice-Chancellor shall be appointed by the Central Government in such manner as may be prescribed by the Statutes.

(2) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall exercise general supervision and control over the affairs of the University and give effect to the decisions of all the authorities of the University.

(3) The Vice-Chancellor may, if he is of the opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under this Act and shall apprise such authority at its next meeting the action taken by him on such matter:

Provided that if the authority concerned is of the opinion that such action ought not to have been taken, it may refer the matter to the Central Government whose decision thereon shall be final:

Provided further that any person in the service of the University who is aggrieved by the action taken by the Vice-Chancellor under this sub-section shall have the right to represent against such action to the Executive Council within three months from the date on which decision on such action is communicated to him and thereupon the Executive Council may confirm, modify or reverse the action taken by the Vice-Chancellor.

(4) Where the Vice-Chancellor is of the opinion that any decision taken by any authority of the University is beyond the powers of the authority conferred under the provisions of



this Act or the Statutes or the Ordinances, or that any decision taken by the authority is not in the interest of the University, he may ask the authority concerned to review its decision within sixty days of such decision and if the authority refuses to review the decision either in whole or in part or no decision is taken by it within the said period of sixty days, the matter shall be referred to the Central Government whose decision thereon shall be final.

(5) The Vice-Chancellor shall exercise such other powers and perform such other duties as may be prescribed by the Statutes or the Ordinances.

**11.** Every Dean of School shall be appointed in such manner, and on such terms and conditions of service, and shall exercise such powers and perform such duties, as may be prescribed by the Statutes. Deans of Schools.

**12.** (1) The Registrar shall be appointed in such manner, and on such terms and conditions of service, as may be prescribed by the Statutes. Registrar.

(2) The Registrar shall have the power to enter into agreements, sign documents and authenticate records on behalf of the University, and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

**13.** The Finance Officer shall be appointed in such manner, and shall exercise such powers and perform such duties, as may be prescribed by the Statutes. Finance Officer.

**14.** Controller of Examinations shall be appointed in such manner and shall exercise such powers and perform such duties, as may be prescribed by the Statutes. Controller of Examinations.

**15.** The Librarian shall be appointed in such manner and on such terms and conditions of service, and shall exercise such powers and perform such duties, as may be prescribed by the Statutes. Librarian.

**16.** The manner of appointment and powers and duties of other officers of the University shall be prescribed by the Statutes. Other officers.

**17.** The following shall be the authorities of the University, namely:— Authorities of University.

(a) the Court;

(b) the Executive Council;

(c) the Academic and Activity Council;

(d) the Board of Sports Studies;

(e) the Finance Committee;

(f) such other authorities as may be declared by the Statutes to be the authorities of the University.

**18.** (1) The constitution of the Court and the term of office of its members shall be prescribed by the Statutes. The Court.

(2) Subject to the provisions of this Act, the Court shall have the following powers and functions, namely:—

(a) to review, from time to time, the broad policies and programmes of the University, and to suggest measures for the improvement and development of the University;

(b) to consider and pass resolutions on the annual report and the annual accounts of the University and the audit report on such accounts;

(c) to advise the Central Government in respect of any matter which may be referred to it for advice; and

(d) to perform such other functions as may be prescribed by the Statutes.

**19.** (1) The Executive Council shall be the principal executive body of the University. Executive Council.

(2) The constitution of the Executive Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes.

Academic and  
Activity  
Council.

**20.** (1) The Academic and Activity Council shall be the principal academic body of the University and shall, subject to the provisions of this Act, the Statutes and the Ordinances, co-ordinate and exercise general supervision over the academic policies of the University.

(2) The constitution of the Academic and Activity Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes:

Provided that the Academic and Activity Council shall have sports persons who have achieved distinction in Olympics or world championships.

Board of  
Sports Studies.

**21.** The constitution, powers and functions of the Board of Sports Studies shall be prescribed by the Statutes.

Finance  
Committee.

**22.** The constitution, powers and functions of the Finance Committee shall be prescribed by the Statutes.

Other  
authorities of  
University.

**23.** The constitution, powers and functions of other authorities, as may be declared by the Statutes to be the authorities of the University, shall be prescribed by the Statutes.

Power to  
make  
Statutes.

**24.** Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

(a) the constitution, powers and functions of authorities and other bodies of the University, as may be constituted from time to time;

(b) the appointment and continuance in office of the members of the said authorities and bodies, the filling up of vacancies of members, and all other matters relating to those authorities and other bodies for which it may be necessary or desirable to provide;

(c) the appointment, powers and duties of the officers of the University and their emoluments;

(d) the appointment of teachers, academic staff and other employees of the University, the emoluments and conditions of service;

(e) the appointment of teachers and academic staff working in any other University or organisation for a specific period for undertaking a joint project;

(f) the conditions of service of employees including provisions for pension, insurance, provident fund, the manner of termination of service and disciplinary action;

(g) the principles governing the seniority of service of the employees of the University;

(h) the procedure for arbitration in cases of dispute between employees or students and the University;

(i) the procedure for appeal to the Executive Council by any employee or student against the action of any officer or authority of the University;

(j) the conferment of autonomous status on a College or an Institution or a Department;

(k) the establishment and abolition of Schools, Departments, Centres, Halls, Colleges, Institutions, Regional Centres and Study Centres;

(l) the conferment of honorary degrees;

(m) the conferment and withdrawal of degrees, diplomas, certificates and other academic distinctions;

(n) the management of Colleges, Institutions, Regional Centres and Study Centres established and maintained by the University;

(o) the delegation of powers vested in the authorities or officers of the University;

(p) the maintenance of discipline among the employees and students; and

(q) all other matters which by this Act are to be, or may be, provided for by the Statutes.

**25.** (1) The first Statutes are those set out in the Schedule to this Act.

Statutes, how  
to be made.

(2) The Executive Council may, from time to time, make new or additional Statutes or may amend or repeal any Statutes referred to in sub-section (1):

Provided that the Executive Council shall not make, amend or repeal any Statutes affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion in writing on proposed changes, and any opinion so expressed shall be considered by the Executive Council.

(3) Every new Statutes or Statutes amending or repealing existing Statutes shall require the approval of the Central Government and unless so approved, they shall be invalid.

(4) Notwithstanding anything contained in the foregoing sub-sections, the Central Government may make new or additional Statutes or amend or repeal the Statutes referred to in sub-section (1), during the period of three years immediately after the commencement of this Act:

Provided that the Central Government may, on the expiry of the said period of three years, make, within one year from the date of such expiry, such detailed Statutes as it may consider necessary and such detailed Statutes shall be laid before both Houses of Parliament.

(5) Notwithstanding anything contained in this section, the Central Government may direct the University to make provisions in the Statutes in respect of any matter specified by it and if the Executive Council is unable to implement such direction within sixty days of its receipt, the Central Government may, after considering the reasons, if any, communicated by the Executive Council for its inability to comply with such direction, make or amend the Statutes suitably.

**26.** (1) Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

Power to  
make  
Ordinances.

(a) the admission of students to the University and their enrolment as such;

(b) the courses of study and their duration to be laid down for all degrees, diplomas and certificates of the University;

(c) the medium of instruction and examination;

(d) the award of degrees, diplomas, certificates and other academic distinctions, the qualifications for the same and the means to be taken relating to the granting and obtaining of the same;

(e) the fees to be charged for courses of study in the University and for admission to examinations, degrees and diplomas of the University;

(f) the conditions for award of fellowships, scholarships, studentships, medals and prizes;

(g) the conduct of examinations, including the term of office and manner of appointment and the duties of examining bodies, examiners and moderators;

(h) the conditions of residence of the students of the University;

(i) the special arrangements, if any, which may be made for the residence and teaching of women students and the prescribing of special courses of studies for them;

(j) the establishment of Centres of Studies, Board of Studies, Specialised Laboratories and other Committees;

(k) the manner of co-operation and collaboration with other Universities, institutions and other agencies including learned bodies or associations;

(l) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;

(m) the institution of fellowships, scholarships, studentships, medals and prizes;

(n) the setting up of a machinery for redressal of grievances of employees and students; and

(o) any other matter which, by this Act or the Statutes, is to be or may be, provided for by the Ordinances.

(2) The first Ordinances shall be made by the Vice-Chancellor with previous approval of the Executive Council and the Ordinances so made may also be amended or repealed at any time by the Executive Council in the manner prescribed by the Statutes.

Regulations.

**27.** The authorities of the University may make Regulations, consistent with this Act, the Statutes and the Ordinances, for the conduct of their own business and that of the Committees, if any, appointed by them and not provided for by this Act, the Statutes or the Ordinances, in the manner prescribed by the Statutes.

Annual report.

**28.** (1) The annual report of the University shall be prepared under the directions of Executive Council, which shall include, among other matters, the steps taken by the University towards the fulfilment of its objects and shall be submitted to the Court on or before such date as may be prescribed by the Statutes and the Court shall consider the report in its annual meeting.

(2) The Court shall submit the annual report to the Central Government along with its comments, if any.

(3) The Central Government shall, as soon as may be, cause a copy of the annual report to be laid before both the Houses of Parliament.

Annual accounts.

**29.** (1) The annual accounts and balance-sheet of the University shall be prepared under the directions of the Executive Council and shall, once at least every year and at intervals of not more than fifteen months, be audited by the Comptroller and Auditor-General of India or by such persons as he may authorise in this behalf.

(2) A copy of the annual accounts together with the audit report thereon shall be submitted to the Court and the Central Government along with the observations of the Executive Council.

(3) Any observations made by the Central Government on the annual accounts shall be brought to the notice of the Court and the observations of the Court, if any, shall, after being considered by the Executive Council, be submitted to the Central Government.

(4) The Central Government shall, as soon as may be, cause the copy of the annual accounts together with the audit report to be laid before both the Houses of Parliament.

(5) The audited annual accounts after having been laid before both the Houses of Parliament shall be published in the Official Gazette.

Fund of University.

**30.** (1) There shall be a University Fund which shall include—

(a) any contribution or grant made by the University Grants Commission or the Central Government;

(b) any contribution or grant made by the State Government;

(c) any contribution made by Government, semi-Government or autonomous bodies;

(d) any loans, gifts, bequests, donations, endowments or other grants, if any;

(e) income received by the University from fees and charges;

(f) the moneys received by the University from the collaborating industries in terms of the provisions of the Memorandum of Understanding entered between the University and the industry for the establishment of sponsored chairs, fellowships or infrastructure facilities of the University; and

(g) amounts received in any other manner from any other source.

(2) All funds of the University shall be deposited in such banks or invested in such manner as the Board may decide on the recommendation of the Finance Committee.

(3) The funds of the University shall be applied towards the expenses of the University including expenses incurred in the exercise of its powers and discharge of its functions by or under this Act.

**31.** The University shall furnish to the Central Government such returns or other information with respect to its property or activities, within such period, as the Central Government may, from time to time, require.

Returns and information.

**32.** (1) Every employee of the University shall be appointed under a written contract, which shall be lodged with the University and a copy of which shall be furnished to the employee concerned.

Conditions of service of employees, etc.

(2) Any dispute arising out of the contract between the University and any employee shall, at the request of the employee, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the employee concerned and an umpire appointed by the Central Government.

(3) The decision of the Tribunal shall be final and no suit shall lie in any civil court in respect of the matters decided by the Tribunal:

Provided that nothing in this sub-section shall preclude the employee from availing of judicial remedies available under articles 32 and 226 of the Constitution.

(4) Every request made by the employee under sub-section (2) shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Arbitration and Conciliation Act, 1996.

(5) The procedure for regulating the work of the Tribunal shall be prescribed by the Statutes.

**33.** (1) Any student or candidate for an examination whose name has been removed from the rolls of the University by the orders or resolution of the Vice-Chancellor, Discipline Committee or Examination Committee, as the case may be, and who has been debarred from appearing at the examinations of the University for more than one year, may, within ten days of the date of receipt of such orders or copy of such resolution by him, appeal to the Executive Council and the Executive Council may confirm, modify or reverse the decision of the Vice-Chancellor or the Committee, as the case may be.

Procedure of appeal and arbitration in disciplinary cases against students.

(2) Any dispute arising out of any disciplinary action taken by the University against a student shall, at the request of such student, be referred to a Tribunal of Arbitration and the provisions of sub-sections (2), (3), (4) and (5) of section 32 shall, as far as may be, apply to a reference made under this sub-section.

**34.** Every employee or student of the University or of a College or an Institution or a Regional Centre or a Study Centre established or maintained by the University shall,

Right to appeals.

notwithstanding anything contained in this Act, have a right to appeal to the Executive Council within such time, as may be prescribed by the Statutes, against the decision of any officer or authority of the University, or of the Principal or the management of any College or Institution or Regional Centre or Study Centre, as the case may be, and thereupon, the Executive Council may confirm, modify or reverse the decision appealed against.

Provident and pension funds.

**35.** (1) The University shall constitute for benefit of its employees such provident fund or any other similar fund or provide such insurance schemes, as it may deem fit, in such manner and subject to such conditions, as may be prescribed by the Statutes.

(2) Where such provident fund or other similar fund has been so constituted, the Central Government may declare that the provisions of the Provident Funds Act, 1925 shall apply to such fund, as if it were a Government provident fund.

19 of 1925.

Disputes as to constitution of authorities and bodies.

**36.** If any question arises as to whether any person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter shall be referred to the Central Government whose decision thereon shall be final.

Filling of casual vacancies.

**37.** All casual vacancies among the members (other than *ex officio* members) of any authority or other body of the University shall be filled, as soon as may be, by the person or body who appoints, elects or co-opts the member whose place has become vacant and the persons appointed, elected or co-opted to a casual vacancy shall be a member of such authority or body for the residue of the term for which the person whose place he fills would have been a member.

Proceedings of authorities or bodies not invalidated by vacancies.

**38.** No act or proceedings of any authority or other body of the University shall be invalid merely by reason of the existence of a vacancy or vacancies among its members.

Protection of action taken in good faith.

**39.** No suit or other legal proceedings shall lie against any officer or other employee of the University for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act, the Statutes or the Ordinances.

Mode of proof of University record.

**40.** Notwithstanding anything contained in the Indian Evidence Act, 1872 or in any other law for the time being in force, a copy of any receipt, application, notice, order, proceeding or resolution of any authority or other body of the University, or any other document in possession of the University, or any entry in any register duly maintained by the University, if certified by the Registrar, shall be received as *prima facie* evidence of such receipt, application, notice, order, proceeding, resolution or document or the existence of entry in the register and shall be admitted as evidence of the matters and transactions therein where the original thereof would, if produced, have been admissible in evidence.

1 of 1872.

Power to remove difficulties.

**41.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.



**42.** (1) Every Statute, Ordinance or Regulation made under this Act shall be published in the Official Gazette.

Statutes, Ordinances and Regulations to be published in the Official Gazette and to be laid before Parliament.

(2) Every Statute, Ordinance or Regulation made under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute, Ordinances or Regulations or both Houses agree that the Statute, Ordinances or Regulations should not be made, the Statute, Ordinances or Regulations shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the Statute, Ordinances or Regulations.

(3) The power to make Statutes, Ordinances or Regulations shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the Statutes, Ordinances or Regulations or any of them but no retrospective effect shall be given to any Statutes, Ordinances or Regulations so as to prejudicially affect the interests of any person to whom such Statutes, Ordinances or Regulations may be applicable.

**43.** Notwithstanding anything contained in this Act and the Statutes,—

Transitional provisions.

(a) the first Vice-Chancellor shall be appointed by the Central Government in such manner and on such conditions as may be deemed fit and the said officer shall hold office for such term, not exceeding five years, as may be specified by the Central Government;

(b) the first Registrar and the first Finance Officer shall be appointed by the Central Government and each of the said officers shall hold office for a term of three years;

(c) the first Court and the first Executive Council shall consist of not more than thirty-one members and eleven members, respectively, who shall be nominated by the Central Government and shall hold office for a term of three years; and

(d) the first Academic and Activity Council shall consist of not more than twenty-one members, who shall be nominated by the Central Government and they shall hold office for a term of three years:

Provided that if any vacancy occurs in the above offices or authorities, the same shall be filled by appointment or nomination, as the case may be, by the Central Government and the person so appointed or nominated shall hold office for so long as the officer or member in whose place he is appointed or nominated would have held office, if such vacancy had not occurred.

Ord. 5 of 2018.

**44.** (1) The National Sports University Ordinance, 2018 is hereby repealed.

Repeal and savings.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.



## THE SCHEDULE

[See section 25(1)]

## The Statutes of the University

Chancellor. 1. (1) The Chancellor shall be appointed by the Central Government from a panel of names of not less than three persons recommended by the Executive Council:

Provided that if the Central Government does not approve any of the persons included in the panel, it may call for an extended fresh panel.

(2) The Chancellor shall be an eminent person in the field of sports who shall either be a sports person himself or a Sports Administrator or a Sports Academician.

(3) The Chancellor shall hold office for the term of five years and shall not be eligible for re-appointment:

Provided that notwithstanding the expiry of his term of office, the Chancellor shall continue to hold office until his successor enters upon his office.

Vice-Chancellor. 2. (1) The Vice-Chancellor shall be appointed by the Central Government from out of a panel of names recommended by a Committee as constituted under clause (2):

Provided that if the Central Government does not approve any of the persons included in the panel, it may call for an extended fresh panel.

(2) The Committee referred to in clause (1) shall consist of five persons, out of whom three shall be nominated by the Executive Council and two by the Central Government, and one of the nominees of the Central Government shall be the convener of the Committee:

Provided that none of the members of the Committee shall be an employee of the University or of a College or Institution or Regional Centre or Study Centre established or maintained by the University or a member of any authority of the University.

(3) The Vice-Chancellor shall be a whole-time salaried officer of the University.

(4) The Vice-Chancellor shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of seventy years, whichever is earlier, and he shall not be eligible for re-appointment:

Provided that notwithstanding the expiry of the said period of five years, he shall continue in office until his successor is appointed and enters upon his office:

Provided further that the Central Government may direct any Vice-Chancellor after his term has expired, to continue in office for such period, not exceeding a total period of one year, as may be specified by it:

Provided also that when the office of the Vice-Chancellor becomes vacant due to death, resignation or otherwise, or, as the case may be, due to illness or such other cause, the Executive Council may appoint the senior-most Dean to perform the functions of the Vice-Chancellor until a new Vice-Chancellor is appointed or, as the case may be, the existing Vice-Chancellor resumes his duties.

(5) Notwithstanding anything contained in clause (4), the Central Government may, at any time after the Vice-Chancellor has entered upon his office, by an order in writing, remove the Vice-Chancellor from office on grounds of incapacity, misconduct or violation of statutory provisions:

Provided that no such order shall be made by the Central Government unless the Vice-Chancellor has been given a reasonable opportunity of showing cause against the action proposed to be taken against him:

Provided further that the Central Government may, at any time before making such order, place the Vice-Chancellor under suspension, pending enquiry.

(6) (a) The Vice-Chancellor shall be paid a monthly salary and allowances, other than house rent allowance, at the rates fixed by the Central Government from time to time and he shall be entitled, without payment of rent, to use a furnished residence throughout his term of office and no charge shall fall on the Vice-Chancellor in respect of the maintenance of such residence.

(b) The Vice-Chancellor shall be entitled to such terminal benefits and allowances as may be fixed by the Central Government from time to time:

Provided that where an employee of the University or of a College, Institution, Regional Centre or Study Centre established or maintained by the University, or of any other University or any College or Institution admitted to the privileges of the University or such other University, is appointed as the Vice-Chancellor, he may be allowed to continue to contribute to any provident fund of which he is a member and the University shall contribute to the account of such person in that provident fund at the same rate at which the person had been contributing immediately before his appointment as the Vice-Chancellor:

Provided further that where such employee had been a member of any pension scheme, the University shall make the necessary contribution to such scheme.

(c) The Vice-Chancellor shall be entitled to travelling allowance at such rates as may be fixed by the Executive Council.

(d) The Vice-Chancellor shall be entitled to leave on full pay at the rate of thirty days in a calendar year and the leave shall be credited to his account in advance in two half-yearly instalments of fifteen days each on the first day of January and July every year:

Provided that if the Vice-Chancellor assumes or relinquishes charge of the office of the Vice-Chancellor during the currency of a half-year, the leave shall be credited proportionately at the rate of two and-a-half days for each completed month of service.

(e) In addition to the leave referred to in sub-clause (d), the Vice-Chancellor shall also be entitled to half-pay leave at the rate of twenty days for each completed year of service, and half-pay leave may also be availed of as commuted leave on full pay on medical certificate:

Provided that when such commuted leave is availed of, twice the amount of half-pay leave shall be debited against half-pay leave due.

3. (1) The Vice-Chancellor shall be *ex officio* Chairman of the Executive Council, the Academic and Activity Council and the Finance Committee and shall, in the absence of the Chancellor, preside at the Convocations held for conferring degrees and at meetings of the Court.

Powers and  
duties of Vice-  
Chancellor.

(2) The Vice-Chancellor shall be entitled to be present at, and address, any meeting of any authority or other body of the University, but shall not be entitled to vote thereat unless he is a member of such authority or body.

(3) It shall be the duty of the Vice-Chancellor to see that this Act, the Statutes, the Ordinances and the Regulations are duly observed and he shall have all the powers necessary to ensure such observance.

(4) The Vice-Chancellor shall have all the powers necessary for the proper maintenance of discipline in the University and he may delegate any such powers to such person or persons as he deems fit.

(5) The Vice-Chancellor shall have the power to convene or cause to be convened the meetings of the Executive Council, the Academic and Activity Council and the Finance Committee.

Deans of  
Schools.

4. (1) Every Dean of School shall be appointed by the Vice-Chancellor from amongst the Professors in the School by rotation in order of seniority for a period of three years:

Provided that in case there is only one Professor or no Professor in a School, the Dean shall be appointed, for the time being, from amongst the Professor, if any, and the Associate Professors in the School, by rotation in the order of seniority:

Provided further that a Dean on attaining the age of sixty-five years shall cease to hold office as such.

(2) When the office of the Dean is vacant or when the Dean is, by reason of illness, absence or any other cause, unable to perform duties of his office, the duties of the office shall be performed by the senior-most Professor or Associate Professor, as the case may be, in the School.

(3) The Dean shall be the Head of the School and shall be responsible for the conduct and maintenance of the standards of teaching and research in the School and shall have such other functions as may be prescribed by the Ordinances.

(4) The Dean shall have the right to be present and to speak at any meeting of the Boards of Sports Studies or Committees of the School, as the case may be, but shall not have the right to vote thereat unless he is a member thereof.

Registrar.

5. (1) The Registrar shall be appointed by the Executive Council on the recommendation of a Selection Committee constituted for the purpose and shall be whole-time salaried officer of University.

(2) The Registrar shall be appointed for a term of five years and shall be eligible for re-appointment.

(3) The emoluments and other terms and conditions of service of the Registrar shall be such as may be prescribed by the Executive Council from time to time:

Provided that the Registrar shall retire on attaining the age of sixty-two years.

(4) When the office of the Registrar is vacant or when the Registrar is, by reason of illness, absence or any other cause, unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) (a) The Registrar shall have power to take disciplinary action against such of the employees, excluding teachers and other academic staff, as may be specified in the order of the Executive Council and to suspend them pending inquiry, to administer warnings to them or to impose on them the penalty of censure or the withholding of increment:

Provided that no such penalty shall be imposed unless the person has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(b) An appeal shall lie to the Vice-Chancellor against any order of the Registrar imposing any of the penalties specified in sub-clause (a).

(c) In a case where the inquiry discloses that a punishment beyond the power of the Registrar is called for, the Registrar shall, upon the conclusion of the inquiry, make a report to the Vice-Chancellor along with his recommendation:

Provided that an appeal shall lie to the Executive Council against an order of the Vice-Chancellor imposing any penalty.

(6) The Registrar shall be *ex officio* Secretary of the Executive Council and the Academic and Activity Council, but shall not be deemed to be member of either of these authorities and he shall be *ex officio* Member-Secretary of the Court.

(7) It shall be the duty of the Registrar—

(a) to be the custodian of the records, the common seal and such other property of the University as the Executive Council shall commit to his charge;

(b) to issue all notices convening meetings of the Court, the Executive Council, the Academic and Activity Council and of any Committee appointed by those authorities;

(c) to keep the minutes of all the meetings of the Court, the Executive Council, the Academic and Activity Council and of any Committees appointed by those authorities;

(d) to conduct the official correspondence of the Court, the Executive Council and the Academic and Activity Council;

(e) to supply to the Central Government, copies of the agenda of the meetings of the authorities of the University as soon as they are issued and the minutes of such meetings;

(f) to represent the University in suits or proceedings by or against the University, sign powers of attorney and verify pleadings or depute his representative for the purpose; and

(g) to perform such other duties as may be specified in the Statutes, the Ordinances or Regulations or as may be required from time to time by the Executive Council.

6. (1) The Finance Officer shall be appointed by the Executive Council on the recommendations of the Selection Committee constituted for the purpose and shall be a whole-time salaried officer of the University. Finance Officer.

(2) The Finance Officer shall be appointed for a term of five years and shall be eligible for re-appointment.

(3) The emoluments and other terms and conditions of service of the Finance Officer shall be such as may be prescribed by the Executive Council from time to time:

Provided that the Finance Officer shall retire on attaining the age of sixty-two years.

(4) When the office of the Finance Officer is vacant or when the Finance Officer is, by reason of illness, absence or any other cause, unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) The Finance Officer shall be *ex officio* Secretary of the Finance Committee, but shall not be deemed to be a member of such Committee.

(6) The Finance Officer shall—

(a) exercise general supervision over the funds of the University and shall advise it as regards its financial policy; and

(b) perform such other financial function as may be assigned to him by the Executive Council or as may be prescribed by the Statutes or the Ordinances.

(7) Subject to the control of the Executive Council, the Finance Officer shall—

(a) hold and manage the property and investments of the University including trust and endowed property;

(b) ensure that the limits fixed by the Executive Council for recurring and non-recurring expenditure for a year are not exceeded and that all moneys are expended on the purpose for which they are granted or allotted;

(c) be responsible for the preparation of annual accounts and the budget of the University and for their presentation to the Executive Council;

(d) keep a constant watch on the state of the cash and bank balances and on the state of investments;

(e) watch the progress of the collection of revenues and advise on the methods of collection employed;

(f) ensure that the registers of buildings, land, furniture and equipment are maintained up to date and that stock-checking is conducted, of equipment and other consumable materials in all offices, Departments, Centres and Specialised Laboratories;

(g) bring to the notice of the Vice-Chancellor any unauthorised expenditure and other financial irregularities and suggest disciplinary action against persons at fault; and

(h) call for, from any office, Department, Centre, Laboratory, College, Institution, Regional Centre or Study Centre established or maintained by the University, any information or returns that he may consider necessary for the performance of his duties.

(8) Any receipt given by the Finance Officer or the person or persons duly authorised in this behalf by the Executive Council for any money payable to University shall be sufficient discharge for payment of such money.

Controller of  
Examinations.

7. (1) The Controller of Examinations shall be appointed by the Executive Council on the recommendations of a Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

(2) The Controller of Examinations shall be appointed for a term of five years and shall be eligible for re-appointment.

(3) The emoluments and other terms and conditions of service of the Controller of Examinations shall be such as may be prescribed by the Executive Council from time to time:

Provided that the Controller of Examinations shall retire on attaining the age of sixty-two years.

(4) When the officer of the Controller of Examinations is vacant or when the Controller of Examinations is, by reason of illness, absence or any other cause, unable to perform the duties of his office, such duties shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) The Controller of Examinations shall arrange for and superintend the examinations of the University in the manner prescribed by the Ordinances.

Librarian.

8. (1) The Librarian shall be appointed by the Executive Council on the recommendations of the Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

(2) The Librarian shall exercise such powers and perform such duties as may be assigned to him by the Executive Council.

Constitution  
and meetings  
of Court.

9. (1) The Court shall consist of the following members who shall hold office for a period of three years, namely:—

(a) *Ex officio* Members:—

(i) the Chancellor;

(ii) the Vice-Chancellor;

(iii) the Proctor;

(iv) the Deans of Schools;

- (v) the Dean of Students' Welfare;
- (vi) the Finance Officer;
- (vii) one Senior Warden, by rotation;
- (viii) the Librarian of the University;
- (ix) the President, Alumni Association;

(b) other Members:

(i) Heads of Departments or Professors who are members of the Academic and Activity Council;

(ii) one representative from each institution recognised by the university, nominated by the Vice-Chancellor on recommendations of the Head of the Institution;

(iii) not more than four persons from amongst eminent sports scientists, sports academicians and sports administrators to be nominated by the Central Government;

(iv) not more than two persons representing sports industry, to be nominated by the Central Government;

(v) not more than ten persons from amongst eminent sports persons and highly recognised coaches to be nominated by the Central Government;

(c) the Registrar, who shall be the *ex officio* Member Secretary.

(2) An annual meeting of the Court shall be held on a date to be fixed by the Executive Council unless some other date has been fixed by the Court in respect of any year.

(3) At an annual meeting of the Court, a report on the working of the University during the previous year, together with a statement of the receipts and expenditure, the balance-sheet as audited, and financial estimates for the next year shall be presented.

(4) A copy of the statement of receipts and expenditure, the balance-sheet and the financial estimates referred to in clause (2) shall be sent to every member of the Court at least seven days before the date of the annual meeting.

(5) Special meetings of the Court may be convened by the Executive Council or the Vice-Chancellor or if there is no Vice-Chancellor, by the Registrar.

(6) Eleven members of the Court shall form a quorum for a meeting of the Court.

**10.** Seven members of the Executive Council shall form a quorum for a meeting of the Executive Council.

Quorum for meeting of Executive Council.

**11. (1)** The Executive Council shall consist of the following members to be nominated by the Central Government who shall hold office for a period of two years, namely:—

Constitution, powers and functions of Executive Council.

(a) *Ex officio* Members:

- (i) the Vice-Chancellor;
- (ii) the Proctor;
- (iii) the Deans of Students' Welfare;
- (iv) the Additional Secretary and Financial Advisor, Ministry of Youth Affairs and Sports;
- (v) the Joint Secretary, Ministry of Youth Affairs and Sports;
- (vi) the Deans of Schools;

(b) Other Members:

(i) three Senior Professors by rotation;

(ii) four persons from amongst sports scientists, sports administrators, eminent sports persons and distinguished coaches.

(2) The Executive Council shall have the power of management and administration of the revenue and property of the University and the conduct of all administrative affairs of the University not otherwise provided for.

(3) Subject to the provision of this Act, the Statutes and the Ordinances, the Executive Council shall, in addition to all other powers vested in it, have the following powers, namely:—

(i) to create teaching and other academic posts including Chairs, to determine the number and emoluments of such posts and to define the duties and conditions of service of Professors, Associate Professors, Assistant Professors and other academic staff;

Provided that no action shall be taken by the Executive Council in respect of the number and qualifications of teachers and other academic staff otherwise than after consideration of the recommendations of the Academic and Activity Council;

(ii) to appoint such Professors, Associate Professors, Assistant Professors and other academic staff including Chair, as may be necessary, on the recommendation of the Selection Committee constituted for the purpose and to fill up temporary vacancies therein;

(iii) to promote interfacial research by making joint appointments of teaching staff in different Schools, Department and Centres;

(iv) to create administrative, ministerial and other necessary posts and to define their duties and conditions of their service and to make appointments thereto in the manner prescribed by the Ordinances;

(v) to grant leave of absence to any officer of the University other than the Chancellor and the Vice-Chancellor, and to make necessary arrangements for the discharge of the functions of such officer during his absence;

(vi) to regulate and enforce discipline among employees in accordance with the Statutes and the Ordinances;

(vii) to manage and regulate the finances, accounts, investments, property, business and all other administrative affairs of the University and for that purpose to appoint such agents as it may think fit;

(viii) to fix limits on the total recurring and the total non-recurring expenditure for a year on the recommendation of the Finance Committee;

(ix) to invest any money belonging to the University, including any unapplied income, in such stocks, funds, share or securities, from time to time, as it may think fit or in the purchase of immovable property in India, with the like powers of varying such investment from time to time;

(x) to transfer or accept transfers of any movable or immovable property on behalf of the University;

(xi) to provide buildings, premises, furniture and apparatus and other means needed for carrying on the work of the University;

(xii) to enter into, vary, carry out and cancel contracts on behalf of the University;



(xiii) to entertain, adjudicate upon, and if thought fit, to redress any grievances of the employees and students of the University who may, for any reason, feel aggrieved;

(xiv) to appoint examiners and moderators and, if necessary, to remove them, and to fix their fees, emoluments and travelling and other allowances, after consulting the Academic and Activity Council;

(xv) to select a common seal for the University and provide for the use of such seal;

(xvi) to make such special arrangements as may be necessary for the residence of women students;

(xvii) to institute fellowships, scholarships, studentships, medals and prizes;

(xviii) to provide for the appointment of Visiting Professors, Emeritus Professors, Consultants and Scholars and determine the terms and conditions of such appointments;

(xix) to enter into partnership with industry and non-Government agencies for the advancement of knowledge and establish a corpus of funds out of the profits of such partnership; and

(xx) to exercise such other powers and perform such other duties as may be conferred or imposed on it by this Act or this Statutes.

**12. (1)** The members of the Academic and Activity Council shall include sports persons who have achieved distinction in Olympics or world championships.

Members of Academic and Activity Council and quorum for meeting.

(2) Nine members of the Academic and Activity Council shall form quorum for the meeting of the Academic and Activity Council.

**13.** Subject to the provisions of this Act, the Statutes and the Ordinances, the Academic and Activity Council shall, in addition to all other powers vested in it, have the following powers, namely:—

Powers and functions of Academic and Activity Council.

(a) to exercise general supervision over the academic policies of the University and to give directions regarding methods of instruction, co-ordination of teaching among the Colleges, Institutions, Regional Centres and Study Centres and evaluation of research and improvement of academic standards;

(b) to bring about and promote inter-School co-ordination and to establish or appoint such committees or boards as may be deemed necessary for the purpose;

(c) to consider matters of general academic interest either on its own initiative, or on a reference by a School or the Executive Council, and to take appropriate action thereon;

(d) to frame such regulations and rules consistent with the Statutes and the Ordinances regarding the academic functioning of the University, discipline, residence, admissions, award of fellowships and studentships, fees, concessions, corporate life and attendance.

**14. (1)** The University shall have such Schools of Studies as may be specified in the Statutes.

Schools of Studies and Departments.

(2) Every School shall have a School Board and the members of the first School Board shall be nominated by the Executive Council for a period of three years.

(3) The composition, powers and functions of a School Board shall be prescribed by the Ordinances.

(4) The conduct of the meetings of a School Board and the quorum required for such meetings shall be prescribed by the Ordinances.

(5) (a) Every School shall consist of such Departments as may be assigned to it by the Ordinances:

Provided that the Executive Council may, on the recommendation of the Academic and Activity Council, establish Centres of Studies to which may be assigned such teachers of the University as the Executive Council may consider necessary.

(b) Each Department shall consist of the following members, namely:—

- (i) teachers of the Department;
- (ii) persons conducting research in the Department;
- (iii) Dean of the School;
- (iv) Honorary Professors, if any, attached to the Department; and
- (v) such other persons as may be members of the Department in accordance with the provisions of the Ordinances.

Board of  
Sports Studies.

**15. (1)** Each Department shall have a Board of Sports Studies.

(2) The term of office of the Board of Sports Studies and of its members shall be prescribed by the Ordinances.

(3) Subject to the overall control and supervision of the Academic and Activity Council, the functions of a Board of Sports Studies shall be to approve subjects for research for various degrees and other requirements of research degrees and to recommend to the concerned School Board in the manner prescribed by the Ordinances,—

- (a) courses of studies and appointment of examiners for courses, but excluding research degrees;
- (b) appointment of supervisors for research; and
- (c) measures for the improvement of the standard of teaching and research:

Provided that the above functions of a Board of Sports Studies shall, during the period of three years immediately after the commencement of this Act, be performed by the Department.

Finance  
Committee.

**16. (1)** The Finance Committee shall consist of the following members, namely:—

- (i) the Vice-Chancellor;
- (ii) one person to be nominated by the Court;
- (iii) three persons to be nominated by the Executive Council, out of whom at least one shall be a member of the Executive Council; and
- (iv) three persons to be nominated by the Central Government.

(2) Five members of the Finance Committee shall form a quorum for a meeting of the Finance Committee.

(3) All the members of the Finance Committee, other than *ex officio* members, shall hold office for a term of three years.

(4) A member of the Finance Committee shall have the right to record a minute of dissent if he does not agree with any decision of the Finance Committee.

(5) The Finance Committee shall meet at least thrice every year to examine the accounts and to scrutinise proposals for expenditure.

(6) All proposals relating to creation of posts, and those items which have not been included in the budget, shall be examined by the Finance Committee before they are considered by the Executive Council.

(7) The annual accounts and the financial estimates of the University prepared by the Finance Officer shall be laid before the Finance Committee for consideration and comments and thereafter submitted to the Executive Council for approval.

(8) The Finance Committee shall recommend limits for the total recurring expenditure and the total non-recurring expenditure for the year, based on the income and resources of the University (which, in the case of productive works, may include the proceeds of loans).

**17. (1)** There shall be Selection Committees for making recommendations to the Executive Council for appointment to the post of Professor, Associate Professor, Assistant Professor, Registrar, Finance Officer, Controller of Examinations, Librarian and Principals of Colleges, Institutions, Regional Centres and Study Centres established or maintained by the University.

Selection  
Committees.

(2) The Selection Committee for appointment to the posts specified in column 1 of the Table below shall consist of the Vice-Chancellor, a nominee of the Central Government and the persons specified in the corresponding entry in column 2 of the said Table:

TABLE

1	2
Professor.	<p>(i) The Dean of the School.</p> <p>(ii) The Head of the Department, if he is a Professor.</p> <p>(iii) Three persons not in the service of the University, nominated by the Executive Council, out of a panel of names recommended by the Academic and Activity Council for their special knowledge of, or interest in, the subject with which the Professor will be concerned.</p>
Associate Professor/ Assistant Professor.	<p>(i) The head of the Department.</p> <p>(ii) One Professor nominated by the Vice-Chancellor.</p> <p>(iii) Two persons not in the service of the University, nominated by the Executive Council, out of a panel of names recommended by the Academic and Activity Council for their special knowledge of, or interest in, the subject with which the Associate Professor or Assistant Professor will be concerned.</p>
Registrar/ Finance Officer/ Controller of Examination.	<p>(i) Two members of the Executive Council nominated by it.</p> <p>(ii) One person not in the service of the University nominated by the Executive Council.</p>
Librarian.	<p>(i) One person not in the service of the University who has special knowledge of the subject of the Library Science or Library Administration nominated by the Executive Council.</p> <p>(ii) One person not in the service of the University nominated by the Executive Council.</p>
Principal of College or Institution maintained by the University.	Three persons not in the service of the University of whom two shall be nominated by the Executive Council and one by the Academic and Activity Council for their special knowledge of, or interest in, a subject in which instruction is being provided by the College or Institution.

*Note 1:* Where the appointment is being made for an inter-disciplinary project, the head of the project shall be deemed to be the Head of the Department concerned.

*Note 2:* The Professor to be nominated by the Vice-Chancellor shall be a Professor concerned with the speciality for which the selection is being made and the Vice-Chancellor

shall consult the Head of the Department and the Dean of the School before nominating the Professor.

(3) The Vice-Chancellor shall convene and preside at the meeting of the Selection Committee:

Provided that the meeting of the Selection Committee shall be fixed after prior consultation with, and subject to the convenience of the Central Government's nominee and the experts nominated by the Executive Council:

Provided further that the proceedings of the Selection Committee shall not be valid unless,—

(a) where the number of the Central Government's nominee and the persons nominated by the Executive Council is four in all, at least three of them attend the meeting; and

(b) where the number of the Central Government's nominee and the persons nominated by the Executive Council is three in all, at least two of them attend the meeting.

(4) The procedure to be followed by the Selection Committee shall be laid down in the Ordinances.

(5) If the Executive Council is unable to accept the recommendations made by the Selection Committee, it shall record its reasons and submit the case to the Central Government for final orders.

(6) (a) Appointments to temporary posts shall,—

(i) if the temporary vacancy is for duration longer than one academic session, be filled on the advice of the Selection Committee in accordance with the procedure indicated in the foregoing clauses:

Provided that if the Vice-Chancellor is satisfied that in the interests of work it is necessary to fill the vacancy, the appointment may be made on a purely temporary basis on the advice of a local Selection Committee referred to in sub-clause (ii) for a period not exceeding six months;

(ii) if the temporary vacancy is for a period less than a year, be made on the recommendation of a local Selection Committee consisting of the Dean of the School concerned, the Head of the Department and a nominee of the Vice-Chancellor:

Provided that if the same person holds the offices of the Dean and the Head of the Department, the Selection Committee may contain two nominees of the Vice-Chancellor:

Provided further that in the case of sudden casual vacancies of teaching posts caused by death or any other reason, the Dean may, in consultation with the Head of the Department concerned, make a temporary appointment for a month and report to the Vice-Chancellor and the Registrar about such appointment.

(b) No teacher appointed temporarily shall, if he is not recommended by a regular Selection Committee for appointment under the Statutes, be continued in service on such temporary employment, unless he is subsequently selected by a local Selection Committee or a regular Selection Committee, for a temporary or permanent appointment, as the case may be.

Special mode  
of  
appointment.

**18. (1)** Notwithstanding anything contained in Statute 17, the Executive Council may invite a person of high academic distinction and professional attainments to accept a post of Professor or Associate Professor or any other equivalent academic post in the University on such terms and conditions as it deems fit and on the person agreeing to do so appoint him to the post:

Provided that the Executive Council may also create supernumerary posts for a specified period for appointment of such persons:

Provided further that the number of supernumerary posts so created should not exceed five per cent. of the total posts in the University.

(2) The Executive Council may appoint a teacher or any other academic staff working in any other University or organisation for undertaking a joint project in accordance with the manner laid down in the Ordinances.

**19.** The Executive Council may appoint a person selected in accordance with the procedure laid down in Statute 17 for a fixed tenure on such terms and conditions as it deems fit.

Appointment for fixed tenure.

**20. (1)** An authority of the University may appoint as many standing or special committees as it may deem fit, and may appoint to such committees persons who are not members of such authority.

Committees.

(2) A committee appointed under clause (1) may deal with any subject delegated to it subject to subsequent confirmation by the authority appointing it.

**21. (1)** All the teachers and other academic staff of the University shall, in the absence of any agreement to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

Terms and conditions of service and code of conduct of teachers, etc.

(2) The emoluments of members of the academic staff shall be such as may be prescribed by the Ordinances.

(3) Every teacher and member of the academic staff of the University shall be appointed on a written contract, the form of which shall be prescribed by the Ordinances.

(4) A copy of every contract referred to in clause (3) shall be deposited with the Registrar.

**22. (1)** All the employees of the University, other than the teachers and other academic staff shall, in the absence of any contract to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

Terms and conditions of service and code of conduct of other employees.

(2) The manner of appointment and emoluments of employees, other than the teachers and other academic staff, shall be such as may be prescribed by the Ordinances.

**23. (1)** Whenever, in accordance with the Statutes, any person is to hold an office or be a member of an authority of the University by rotation according to seniority, such seniority shall be determined according to the length of continuous service of such person in his grade and in accordance with such other principles as the Executive Council may, from time to time, prescribe.

Seniority list.

(2) It shall be the duty of the Registrar to prepare and maintain in respect of each class of persons to whom the provisions of these Statutes apply, a complete and up-to-date seniority list in accordance with the provisions of clause (1).

(3) If two or more persons have equal length of continuous service in a particular grade or the relative seniority of any person or persons is otherwise in doubt, the Registrar may, on his own motion and shall, at the request of any such person, submit the matter to the Executive Council whose decision thereon shall be final.

**24. (1)** Where there is an allegation of misconduct against a teacher, a member of the academic staff or other employee of the University, the Vice-Chancellor, in the case of the teacher or a member of the academic staff, and the authority competent to appoint (hereinafter referred to as the appointing authority) in the case of other employee may, by order in

Removal of employees of University.

writing, place such teacher, member of the academic staff or other employee, as the case may be, under suspension and shall forthwith report to the Executive Council the circumstances in which the order was made:

Provided that the Executive Council may, if it is of the opinion, that the circumstances of the case do not warrant the suspension of the teacher or a member of the academic staff, revoke such order.

(2) Notwithstanding anything contained in the terms of the contract of appointment or of any other terms and condition of service of the employees, the Executive Council in respect of teachers and other academic staff, and the appointing authority in respect of other employees, shall have the power to remove a teacher or a member of the academic staff or other employee, as the case may be, on grounds of misconduct.

(3) Save as aforesaid, the Executive Council, or as the case may be, the appointing authority, shall not be entitled to remove any teacher, member of the academic staff or other employee except for a good cause and after giving three months' notice or on payment of three months' salary in lieu thereof.

(4) No teacher, member of the academic staff or other employee shall be removed under clause (2) or clause (3) unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(5) The removal of a teacher, member of the academic staff or other employee shall take effect from the date on which the order of removal is made:

Provided that where the teacher, member of the academic staff or other employee is under suspension at the time of his removal, such removal shall take effect from the date on which he was placed under suspension.

(6) Notwithstanding anything contained in the foregoing provisions of the Statute, a teacher, member of the academic staff or other employee may resign,—

(a) if he is a permanent employee, only after giving three months' notice in writing to the Executive Council or the appointing authority, as the case may be, or by paying three months' salary in lieu thereof;

(b) if he is not a permanent employee, only after giving one month's notice in writing to the Executive Council or, as the case may be, the appointing authority or by paying one month's salary in lieu thereof:

Provided that such resignation shall take effect only on the date on which the resignation is accepted by the Executive Council or the appointing authority, as the case may be.

Honorary  
degrees.

**25.** (1) The Executive Council may, on the recommendation of the Academic and Activity Council and by a resolution passed by a majority of not less than two-thirds of the members present and voting, make proposals to the Central Government for the conferment of honorary degrees:

Provided that in case of emergency, the Executive Council may, on its own motion, make such proposals.

(2) The Executive Council may, by a resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw, with the previous sanction of the Central Government, any honorary degree conferred by the University.

Withdrawal of  
degrees, etc.

**26.** The Executive Council may, by a resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw a degree or academic distinction conferred on, or any certificate or diploma granted to, any person by the University for good and sufficient cause:

Provided that no such resolution shall be passed until a notice in writing has been given to that person calling upon him to show cause within such time as may be specified in the notice as to why such a resolution should not be passed and until his objections, if



any, and any evidence he may produce in support of them, have been considered by the Executive Council.

**27.** (1) All powers relating to the maintenance of discipline and disciplinary action in relation to the students of the University shall vest in Vice-Chancellor.

Maintenance of discipline amongst students of University.

(2) There shall be Proctor of the University to assist the Vice-Chancellor in the exercise of the powers referred to in clause (1), who shall be appointed by the Executive Council from amongst the Professors and Associate Professors in the manner prescribed by the Ordinances.

(3) The Vice-Chancellor may delegate all or any of the powers referred to in clause (1), as he deems proper, to the Proctor and to such other officers as he may specify in this behalf.

(4) Without prejudice to the generality of his powers relating to the maintenance of discipline and taking such action, as may seem to him appropriate for the maintenance of discipline, the Vice-Chancellor may, in exercise of such powers, by order, direct that any student or students be expelled or rusticated, for a specified period, or be not admitted to a course or courses of study in a College, Institution or Regional Centre or a Department or a School of the University for a stated period, or be punished with fine for an amount to be specified in the order, or be debarred from taking an examination or examinations conducted by the University, College, Institution or Regional Centre or Department or a School for one or more years, or that the results of the student or students concerned in the examination or examinations in which he or they have appeared be withheld or cancelled.

(5) The Principals of Colleges, Institutions, Deans of Schools of Studies and Heads of teaching Departments in the University shall have the authority to exercise all such disciplinary powers over the students in their respective Colleges, Institutions, Schools and teaching Departments in the University, as may be necessary for the proper conduct of such Colleges, Institution, Schools and teaching Departments.

(6) Without prejudice to the powers of the Vice-Chancellor and the Principals and other persons specified in clause (5), detailed rules of discipline and proper conduct shall be made by the University and the Principals of Colleges, Institutions, Deans of Schools of Studies and Heads of teaching Departments in the University may also make such supplementary rules as they deem necessary for the purposes stated therein.

(7) At the time of admission, every student shall be required to sign a declaration to the effect that he submits himself to the disciplinary jurisdiction of the Vice-Chancellor and other authorities of the University.

**28.** Convocations of the University for the conferring of degrees or for other purposes shall be held in such manner as may be prescribed by the Ordinances.

Convocations.

**29.** Where no provision is made for Chairman to preside over a meeting of any authority of the University or any Committee of such authority or when the Chairman so provided for is absent, the members present shall elect one from among themselves to preside at such meeting.

Acting Chairman of meetings.

**30.** Any member, other than an *ex officio* member of the Court, the Executive Council, the Academic and Activity Council or any other authority of the University or any Committee of such authority may resign by letter addressed to the Registrar and the resignation shall take effect as soon as such letter is received by the Registrar.

Resignation.

**31.** (1) A person shall be disqualified for being chosen as, and for being, a member of any of the authorities, or for being appointed as, and for being, an officer, of the University if—

Disqualification.

(i) he is of unsound mind;

(ii) he is an undischarged insolvent; or



(iii) he has been convicted by a court of law of an offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months.

(2) If any question arises as to whether a person is or had been subjected to any of the disqualifications mentioned in clause (1), the question shall be referred to the Central Government and its decision shall be final and no suit or other proceeding shall lie in any civil court against such decision.

Residence conditions for membership and office.

**32.** Notwithstanding anything contained in the Statutes, a person who is not ordinarily resident in India shall not be eligible to be an officer of the University or a member of any authority of the University.

Membership of authorities by virtue of membership of other bodies.

**33.** Notwithstanding anything contained in the Statutes, a person who holds any post in the University or is a member of any authority or body of the University in his capacity as a member of a particular authority or body or as the holder of a particular appointment shall hold such office or membership only for so long as he continues to be a member of that particular authority or body or the holder of that particular appointment, as the case may be.

Alumni Association.

**34.** (1) There shall be an Alumni Association for the University.

(2) The subscription for membership of the Alumni Association shall be prescribed by the Ordinances.

(3) No member of the Alumni Association shall be entitled to vote or stand for election unless he has been a member of the Association for at least one year prior to the date of election and is a degree holder of the University of at least five years standing:

Provided that the condition relating to the completion of one year's membership shall not apply in the case of the first election.

Students Council.

**35.** (1) There shall be constituted in the University, a Students' Council for every academic year, consisting of,—

(i) the Dean of Students' Welfare who shall be the Chairman of the Students' Council;

(ii) twenty students to be nominated by the Academic and Activity Council on the basis of merit in studies, sports and extra-curricular activities; and

(iii) twenty students to be elected by the students as their representatives:

Provided that any student of the University shall have the right to bring up any matter concerning the University before the Students' Council, if so permitted by the Chairman, and he shall have the right to participate in the discussions at any meeting when the matter is taken up for consideration.

(2) The functions of the Students' Council shall be to make suggestions to the appropriate authorities of the University in regard to the programmes of studies, students' welfare and other matters of importance, in regard to the working of the University in general and such suggestions shall be made on the basis of consensus of opinion.

(3) The Students' Council shall meet at least twice in every academic year and the first meeting of the Council be held in the beginning of the academic session.

Ordinances how to be made.

**36.** (1) The first Ordinances made under sub-section (2) of section 26 may be amended or repealed at any time by the Executive Council in the manner specified in the following clauses.

(2) No Ordinances in respect of the matters enumerated in sub-section (1) of section 26 of this Act shall be made by the Executive Council unless a draft of such Ordinances has been proposed by the Academic and Activity Council.

(3) The Executive Council shall not have power to amend any draft of any Ordinances proposed by the Academic and Activity Council under clause (2), but may reject the proposal or return the draft to the Academic and Activity Council for re-consideration, either in whole or in part, together with any amendment which the Executive Council may suggest.

(4) Where the Executive Council has rejected or returned the draft of an Ordinances proposed by the Academic and Activity Council, the Academic and Activity Council may consider the question afresh and in case the original draft is reaffirmed by a majority of not less than two-thirds of the members present and voting and more than half of the total number of members of the Academic and Activity Council, the draft may be sent back to the Executive Council which shall either adopt it or refer it to the Central Government whose decision shall be final.

(5) Every Ordinance made by the Executive Council shall come into effect immediately.

(6) Every Ordinance made by the Executive Council shall be submitted to the Central Government within two weeks from the date of its adoption.

(7) The Central Government shall have the power to direct the University to suspend the operation of any Ordinance.

(8) The Central Government shall inform the Executive Council about its objection to the Ordinances referred to in clause (7) and may, after receiving the comments of the University, either withdraw the order suspending the Ordinances or disallow the Ordinances, and its decision shall be final.

**37.** (1) The authorities of the University may make Regulations consistent with this Act, the Statutes and the Ordinances for the following matters, namely:— Regulations.

(i) laying down the procedure to be observed at their meeting and the number of members required to form a quorum;

(ii) providing for all matters which are required by this Act, the Statutes or the Ordinances, to be prescribed by Regulations; and

(iii) providing for all other matters solely concerning such authorities or committees appointed by them and not provided for by this Act, the Statutes or the Ordinances.

(2) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meeting and of the business to be considered at meetings and for the keeping of a record of the proceedings of meetings.

(3) The Executive Council may direct the amendment in such manner as it may specify of any Regulation made under the Statutes or the annulment of any such Regulation.

**38.** Subject to the provisions of this Act and the Statutes, any officer or authority of the University may delegate his or its powers to any other officer or authority or person under his or its respective control and subject to the condition that overall responsibility for the exercise of the powers so delegated shall continue to vest in the officer or authority delegating such powers. Delegation of powers.

## STATEMENT OF OBJECTS AND REASONS

The National Sports University will be the first full-fledged sports university in India of international standards. The Lakshmibai National Institute of Physical Education, Gwalior, a deemed university, is restricted to offering Bachelor of Physical Education and Master of Physical Education courses and the Netaji Subhas National Institute of Sports focuses on training elite athletes and coaches only. Thus, a void exists in the sports environment of the country in various areas, such as, sports science, sports technology, sports management, high performance training, etc. Therefore, it has been decided to establish the National Sports University (University) which is expected to fill this void with its exclusive focus on creation of high standard infrastructure for the development of sports sciences and training of athletes apart from providing Bachelor's Degree, Master's Degrees and Research and Training in various areas related to sports.

2. Consistent with international practices followed by best sports universities in the world, the focus of the University will be on multi-disciplinary studies and accordingly, have functionally related Schools with stress on applicability based on the latest researches in sports sciences, sports medicine and sports technology. The University will address issues relating to various disciplines of great importance at international levels including adventure and disability sports. The University is also empowered to establish Outlying Campuses throughout the country and also outside India. Apart from academic programmes and research, the University and its Outlying Campuses will also impart training to elite athletes, sports officials, referees and umpires and evolve as centres of excellence in various disciplines of sports. To make the University a world standard university, memorandum of understanding have been signed by the Government of India with two Australian Universities, namely, the University of Canberra and Victoria University, for the development of curriculum, research facilities, laboratories, etc.

3. The National Sports University Bill, 2017 which was introduced in the Lok Sabha on 10th August, 2017 could not be passed. As the Parliament was not in session and an urgent legislation was required to be made, the President promulgated the National Sports University Ordinance, 2018 on the 31st day of May, 2018 (Ord. 5 of 2018).

4. The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI;  
*The 6th July, 2018.*

COL. RAJYAVARDHAN RATHORE.

*Notes on clauses*

*Clause 2* of the Bill defines the various expressions used in the Bill.

*Clause 3* of the Bill provides for the establishment of the National Sports University with its headquarters in the State of Manipur.

*Clause 4* of the Bill provides for the objects of the University which include, *inter alia*, (a) to evolve as an institute of advanced study in the field of physical education and sports sciences; (b) to provide for research and development and dissemination of knowledge in physical education and sports sciences; (c) to provide professional and academic leadership to other institutions in the field of physical education and sports sciences; (d) to serve as a Centre of Excellence for the elite and other talented sportspersons of all sports and games and innovation in physical education and sports sciences and to carry out, endorse and propagate research, etc.

*Clause 5* of the Bill provides for and elaborates the powers and functions of the University which include, *inter alia*, (a) to plan, design, develop and conduct appropriate academic and training programmes in physical education and sports sciences; (b) to grant, subject to such conditions as the University may determine, diplomas or certificates to, and confer degrees or other academic distinctions; (c) to open Regional Centres in other parts of the country and to establish Outlying Campuses within India or outside India; (d) to conduct innovative experiments and promote new methods and technologies in the fields of physical education, sports sciences, sports medicine, sports technology, sports management and other related fields; (e) to act as a technical advisory body to Government of India and other National Organisations, State Governments and National Sports Federations on all matters related to sports, etc.

*Clause 6* of the Bill provides that the University shall be open to all castes, creed, race or class.

*Clause 7* of the Bill empowers the Central Government to review the work and progress of the University including Outlying Campuses, Colleges, Institutions, Regional Centres and Study Centres maintained by it.

*Clause 8* of the Bill specifies the officers of the University namely, the Chancellor, the Vice-Chancellor, the Deans of Schools, the Registrar, the Finance Officer, the Controller of Examinations, the Librarian and such other officers as may be declared by the Statutes.

*Clause 9* of the Bill provides for the appointment of the Chancellor who shall be the head of the University.

*Clause 10* of the Bill provides for the appointment of the Vice-Chancellor who shall be the Principal Executive and Academic Officer of the University.

*Clause 11* of the Bill provides for the appointment of the Deans of Schools.

*Clause 12* of the Bill provides for the appointment of the Registrar.

*Clause 13* of the Bill provides for the appointment of the Finance Officer.

*Clause 14* of the Bill provides for the appointment of the Controller of Examinations.

*Clause 15* of the Bill provides for the appointment of the Librarian.

*Clause 16* of the Bill provides for the appointment of other Officers of the University.

*Clause 17* of the Bill specifies the authorities of the University, namely, the Court, the Executive Council, the Academic and Activity Council, the Board of Sports Studies, the Finance Committee and such other authorities as may be declared by the Statutes.

*Clause 18* of the Bill provides for the Court and its powers which includes, *inter alia*, review of broad policies and programmes of the University and suggest measures of improvement.

*Clause 19* of the Bill provides for the Executive Council, who shall be the Principal Executive Body of the University, and its powers.

*Clause 20* of the Bill provides for the Academic and Activity Council which shall be the Principal Academic Body of the University and its constitution.

*Clause 21* of the Bill provides that the constitution, powers and functions of the Board of Sports Studies shall be prescribed by the Statutes.

*Clause 22* of the Bill provides that the constitution, powers and functions of the Finance Committee shall be prescribed by the Statutes.

*Clause 23* of the Bill provides that the constitution, powers and functions of other authorities of the University shall be prescribed by the Statutes.

*Clause 24* of the Bill provides for the matters in respect of which the Statutes may be made under the Bill.

*Clause 25* of the Bill provides for the manner in which the Statutes may be made under the Bill.

*Clause 26* of the Bill provides for the matters in respect of which the Ordinances may be made under the Bill.

*Clause 27* of the Bill empowers the authorities of the University to make Regulations, consistent with the Bill, the Statutes and the Ordinances.

*Clause 28* of the Bill provides that the annual report of the University shall be prepared under the directions of the Executive Council and shall be submitted to the Court which, in turn, shall submit the same to the Central Government with its comments, if any.

*Clause 29* of the Bill provides that annual accounts of the University shall be prepared under the directions of the Executive Council every year and be audited by the Comptroller and Auditor-General (CAG) of India and the observations of the Central Government thereon shall be brought to the notice of the Court and on resubmission to the Central Government, may be laid before both Houses of Parliament.

*Clause 30* of the Bill provides that there shall be a University Fund for contributions, grants, loans, gifts, donations, etc.

*Clause 31* of the Bill provides that the University shall furnish returns and information in respect of its property to the Central Government.

*Clause 32* of the Bill provides for the conditions of the service of the employees which, *inter alia*, include that every employee shall be employed under a written contract and disputes arising out of the contract, shall be referred to a Tribunal of Arbitration.

*Clause 33* of the Bill provides for procedure of appeal and arbitration in disciplinary cases against students.

*Clause 34* of the Bill provides that every employee or student of the University or of a College or an Institution or a Regional Centre or a Study Centre of the University shall have the right to appeal to the Executive Council.

*Clause 35* of the Bill provides that the University shall constitute provident and pension funds for its employees.

*Clause 36* of the Bill provides for referral of disputes arising out of elections of the University to the Central Government for a final decision.

*Clause 37* of the Bill provides for filling of casual vacancies of the University.

*Clause 38* of the Bill provides that the proceedings of authorities or bodies shall not be invalidated by the vacancies among its members.

*Clause 39* of the Bill provides for protection of officers who have taken action in good faith in pursuance of the provisions of the Bill, the Statutes or the Ordinances.

*Clause 40* of the Bill provides that anything certified by the Registrar shall be received as *prima facie* evidence such as receipts, applications, etc.

*Clause 41* of the Bill provides for power of the Central Government to remove difficulties, by order published in the Official Gazette, if any difficulty arises in giving effect to the provisions of the Bill.

*Clause 42* of the Bill provides that every Statute, Ordinance or Regulation made under the Bill shall be published in the Official Gazette.

*Clause 43* of the Bill provides for transitional provisions empowering the Central Government to appoint the first Vice-Chancellor, the first Registrar, the first Executive Council, the first Academic and Activity Council.

*Clause 44* of the Bill provides for the repeal of the National Sports University Ordinance, 2018.

## FINANCIAL MEMORANDUM

Sub-clause (1) of clause 3 of the Bill provides for the establishment of a University by the name of “National Sports University” with its headquarters in the State of Manipur.

2. The total expenditure towards establishment of the University is estimated to be 524 crore rupees which will include expenditure for the establishment of Outlying Campuses. The land for the establishment of the University has been granted by the Government of Manipur free of cost. Hence, the cost of land is not factored in the overall expenditure.

3. Out of the total expenditure of 524 crore rupees, the non-recurring expenditure is estimated to be 442 crore rupees and the recurring expenditure is estimated to be 82 crore rupees.

4. The Bill does not involve any other expenditure of recurring or non-recurring nature from the Consolidated Fund of India.



## MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 25 of the Bill provides that the first Statutes are those set out in the Schedule to this Bill. Sub-clause (4) of clause 25 of the Bill provides that the Central Government may make new or additional Statutes or amend or repeal the first Statutes during the period of three years immediately after the commencement of the Bill. It further provides that on the expiry of the period of three years, the Central Government may make, within one year from the date of such expiry, such detailed Statutes as it may consider necessary. Clause 24 of the Bill provides for the matters in respect of which the Statutes may be made.

2. Sub-clause (1) of clause 26 of the Bill provides for the matters in respect of which the Ordinances may be made which include, *inter alia*, admission of students, courses of study, medium of instructions, award of degrees, diplomas, etc., fees charged for the courses, conditions for award of fellowships, scholarships, etc., conduct of examinations, conditions of residence of students, special arrangements, if any, for the residence and teaching of women students, establishment of centres of studies, collaboration with other universities and institutions, creation of any other body considered necessary, institution of fellowships, setting up machinery for redressal of grievances and any other matter that may be provided for by the Ordinances. Sub-clause (2) of clause 26 of the Bill provides that the first Ordinances shall be made by the Vice-Chancellor with previous approval of the Executive Council and the Ordinances so made may also be amended or repealed at any time by the Executive Council in the manner prescribed by the Statutes.

3. Clause 27 of the Bill empowers the University to make Regulations consistent with the Bill, the Statutes and the Ordinances for the conduct of its own business and that of the Committees, if any, appointed by them and not provided for by the Bill, the Statutes or the Ordinances, in the manner prescribed by the Statutes.

4. The matters in respect of which the Statutes, Ordinances and Regulations may be made are matters of procedure and administrative detail, and as such, it is not practicable to provide for them in the proposed Bill itself. The delegation of legislative power is, therefore, of a normal character.

## BILL NO. 102 OF 2018

*A Bill to amend the Micro, Small and Medium Enterprises Development Act, 2006.*

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and  
commencement.

**1.** (1) This Act may be called the Micro, Small and Medium Enterprises Development (Amendment) Act, 2018.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment  
of section 7.

**2.** In the Micro, Small and Medium Enterprises Development Act, 2006 (hereinafter referred to as the principal Act), in section 7,—

27 of  
2006.

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) Notwithstanding anything contained in section 11B of the Industries (Development and Regulation) Act, 1951, the Central Government may, for the

65 of 1951.

purposes of this Act, by notification and having regard to the provisions of sub-sections (4) and (5), classify any class or classes of enterprises, whether proprietorship, Hindu undivided family, association of persons, co-operative society, partnership firm, company or undertaking, by whatever name called, engaged in the manufacture or production of goods pertaining to any industry specified in the First Schedule to the Industries (Development and Regulation) Act, 1951, or engaged in providing or rendering of services, as—

(i) a micro enterprise, where the annual turnover does not exceed five crore rupees;

(ii) a small enterprise, where the annual turnover is more than five crore rupees but does not exceed seventy-five crore rupees;

(iii) a medium enterprise, where the annual turnover is more than seventy-five crore rupees but does not exceed two hundred and fifty crore rupees.

(1A) The Central Government may, by notification, vary the turnover limits, which shall not exceed thrice the limits, specified in sub-section (1) for the purposes of development of micro, small and medium enterprises.”;

(b) in sub-section (9),—

(i) for the words “criterion of investment”, the words “criterion of annual turnover” shall be substituted;

(ii) for the words “as part of small enterprises”, the words “as part of small and medium enterprises” shall be substituted.

**3.** In section 14 of the principal Act, in sub-section (2), the words, brackets and figure “sub-section (1) of ” shall be omitted.

Amendment  
of section 14.

## STATEMENT OF OBJECTS AND REASONS

The Micro, Small and Medium Enterprises Development Act, 2006 (the said Act) was enacted to provide for facilitating the promotion and development and enhancing the competitiveness of micro, small and medium enterprises. The said Act, *inter alia*, provides for classification of the enterprises as micro, small or medium based on their investment in plant and machinery or equipment. Over a period of time, it has been felt necessary to change the criteria for the classification in order to align it with the need of current times and changing business ecosystem.

2. In the course of consultation with various stakeholders, it has been noted that the criterion of investment in plant and machinery or equipment entails physical verification having associated transaction costs. It also incentivises the tendency in the promoters of the enterprises to keep the investment size small in a particular business entity in order to retain the benefits associated with micro or small enterprises category. While evaluating various alternatives, it has been considered appropriate that if the annual turnover is taken as a criterion for classification, the information available with goods and services tax network and other sources can be used for determination of the category of the enterprises. Overall, the turnover based classification will promote the ease of doing business and will put in place a non-discretionary, transparent and objective classification system.

3. In view of the above, it is proposed to amend section 7 of the Micro, Small and Medium Enterprises Development Act, 2006 to—

(a) provide for change in the criterion of classification of micro, small and medium enterprises from the existing criterion of investment in plant and machinery or equipment to a new criterion based on annual turnover of the enterprises; and

(b) confer power upon the Central Government to vary, the turnover limits, by notification which shall not exceed thrice the limits specified in sub-section (1) of section 7 for the purpose of development of micro, small and medium enterprises.

4. The Bill seeks to achieve the above objects.

NEW DELHI;  
The 22nd March, 2018.

GIRIRAJ SINGH.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (a) of clause 2 of the Bill seeks to insert sub-section (1A) in section 7 of the Micro, Small and Medium Enterprises Development Act, 2006, so as to confer power upon the Central Government to vary the turnover limits relating to the classification of micro, small and medium enterprises by way of notification.

2. The matters in respect of which the notification may be issued under the proposed legislation are matters of procedure or administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

## BILL NO. 124 OF 2018

*A Bill further to amend the Homoeopathy Central Council Act, 1973.*

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title  
and  
commence-  
ment.

**1.** (1) This Act may be called the Homoeopathy Central Council (Amendment) Act, 2018.

(2) It shall be deemed to have come into force on the 18th day of May, 2018.

Insertion of  
new sections  
3A, 3B and  
3C.

**2.** In the Homoeopathy Central Council Act, 1973 (hereinafter referred to as the principal Act), after section 3, the following sections shall be inserted, namely:— 59 of 1973.

Power of  
Central  
Government  
to supersede  
Central  
Council and  
to constitute  
a Board of  
Governors.

‘3A. (1) On and from the date of commencement of the Homoeopathy Central Council (Amendment) Act, 2018, the Central Council shall stand superseded and the President, Vice-President and other members of the Central Council shall vacate their offices and shall have no claim for any compensation, whatsoever.

(2) The Central Council shall be reconstituted in accordance with the provisions of section 3 within a period of one year from the date of supersession of the Central Council under sub-section (1).



(3) Upon the supersession of the Central Council under sub-section (1) and until a new Council is constituted in accordance with section 3, the Board of Governors constituted under sub-section (4) shall exercise the powers and perform the functions of the Central Council under this Act.

(4) The Central Government shall, by notification in the Official Gazette, constitute a Board of Governors which shall consist of not more than seven persons as its members, who shall be persons of eminence and of unimpeachable integrity in the fields of Homoeopathy and Homoeopathy education, and eminent administrators, and who may be either nominated member or members, *ex officio*, to be appointed by the Central Government, one of whom shall be selected by the Central Government as the Chairperson of the Board of Governors.

(5) The Chairperson and the other members, other than the members, *ex officio*, shall be entitled to such sitting fee and travelling and other allowances as may be determined by the Central Government.

(6) The Board of Governors shall meet at such time and such place and shall observe such rules of procedure in regard to the transaction of business at its meetings as is applicable to the Central Council.

(7) Two-third of the members of the Board of Governors shall constitute the quorum of its meetings.

(8) No act or proceedings of the Board of Governors shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board of Governors; or

(b) any irregularity in the procedure of the Board of Governors not affecting the merits of the case.

(9) A member having any financial or other interest in any matter coming before the Board of Governors for decision, shall disclose his interest in the matter before he may, if allowed by the Board of Governors, participate in such proceedings.

(10) The Chairperson and other members of the Board of Governors shall hold office during the pleasure of the Central Government.

3B. During the period when the Central Council stands superseded,—

(a) the provisions of the Act shall be construed as if for the words "Central Council", the words "Board of Governors" were substituted;

(b) the Board of Governors shall exercise the powers and discharge the functions of the Central Council under this Act and for this purpose, the provisions of this Act shall have effect subject to the modification that references therein to the Central Council shall be construed as references to the Board of Governors.

Certain  
modifications  
of Act.

3C. (1) Without prejudice to the provisions of this Act, the Board of Governors or the Central Council after its reconstitution shall, in exercise of its powers and in the performance of its functions under this Act, be bound by such directions on question of policy, other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time:

Power of  
Central  
Government  
to give  
directions.

Provided that the Board of Governors or the Central Council, after its reconstitution shall, as far as practicable, be given an opportunity to express its view before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is a matter of policy or not shall be final.’.

Insertion of  
new section  
12C.

Time for  
seeking  
permission  
for certain  
existing  
medical  
colleges.

3. After section 12B of the principal Act, the following section shall be inserted, namely:—

"12C. (1) If any person has established a Homoeopathy Medical College or any Homoeopathy Medical College has opened a new or higher course of study or training or increased the admission capacity on or before the date of commencement of the Homoeopathy Central Council (Amendment) Act, 2018, such person or Homoeopathy Medical College, as the case may be, shall seek, within a period of one year from the said commencement, permission of the Central Government, in accordance with the provisions specified in the regulations made by the Central Council.

(2) If any person or Homoeopathy Medical College, as the case may be, fails to seek permission under sub-section (1), the provisions of section 12B shall apply, as far as may be, as if the Central Government has been refused."

Repeal and  
saving.

4. (1) The Homoeopathy Central Council (Amendment) Ordinance, 2018 is hereby repealed.

Ord. 4 of  
2018.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

## STATEMENT OF OBJECTS AND REASONS

The Homoeopathy Central Council Act, 1973 (59 of 1973) was enacted for constitution of the Central Council of Homoeopathy and the maintenance of the Central Register of Homoeopathy and for matters connected therewith.

2. The Homoeopathy Central Council Act, 1973 was amended in the year 2002 to make provision for seeking permission of the Central Government for establishing new colleges or starting new courses of study or increase of admission capacity in existing colleges. The amendment has been made to check the growth of sub-standard Homoeopathy Colleges. Further, many Homoeopathy Medical Colleges are still struggling to meet the required standards necessary to impart quality education. There have been instances of serious malpractices in the Council, as a result of which the quality of medical education has been compromised with. The Central Government has taken various steps to streamline the functioning of the Council and to bring transparency in the affairs of the Council. However, the Council has been stalling all such initiatives of the Central Government. Many Members of the Council are continuing in the Council long after their tenure is completed. Further, there have been many charges of serious misconduct against the President of the Council, who continued to be a Member in the Council even after the end of his tenure as the election to elect the new incumbent could not be completed in time.

3. As Parliament was not in session and immediate action was required to be taken, the President promulgated the Homoeopathy Central Council (Amendment) Ordinance, 2018 on the 18th day of May, 2018.

4. It is, therefore, proposed to introduce the Homoeopathy Central Council (Amendment) Bill, 2018, to replace the Homoeopathy Central Council (Amendment) Ordinance, 2018 which, *inter alia*, provides for the following, namely:—

(a) to constitute a Board of Governors by superseding the Central Council of Homoeopathy till a new Central Council is duly reconstituted within a period of one year from the date of supersession of the Central Council;

(b) to make provision for obtaining prior permission of the Central Government by all Homoeopathy Medical Colleges.

5. The Bill seeks to achieve the aforesaid objectives.

NEW DELHI;  
The 17th July, 2018.

SHRIPAD YESSO NAIK.

## BILL NO. 127 OF 2018

*A Bill further to amend the Insolvency and Bankruptcy Code, 2016.*

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and  
commencement.

**1.** (1) This Act may be called the Insolvency and Bankruptcy Code (Second Amendment) Act, 2018.

(2) It shall be deemed to have come into force on the 6th day of June, 2018.

Amendment  
of section 3.

**2.** In the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the principal Act), in section 3, in clause (12), for the word "repaid", the word "paid" shall be substituted.

31 of 2016.

**3. In section 5 of the principal Act,—**Amendment  
of section 5.

(i) after clause (5), the following clause shall be inserted, namely:—

'(5A) "corporate guarantor" means a corporate person who is the surety in a contract of guarantee to a corporate debtor;';

(ii) in clause (8), in sub-clause (f), the following *Explanation* shall be inserted, namely:—

*'Explanation.*—For the purposes of this sub-clause,—

(i) any amount raised from an allottee under a real estate project shall be deemed to be an amount having the commercial effect of a borrowing; and

(ii) the expressions, "allottee" and "real estate project" shall have the meanings respectively assigned to them in clauses (d) and (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016;';

(iii) in clause (12), the following proviso shall be inserted, namely:—

"Provided that where the interim resolution professional is not appointed in the order admitting application under section 7, 9 or section 10, the insolvency commencement date shall be the date on which such interim resolution professional is appointed by the Adjudicating Authority;";

(iv) in clause (21), for the word "repayment", the word "payment" shall be substituted;

(v) after clause (24), the following clause shall be inserted, namely:—

'(24A) "related party", in relation to an individual, means—

(a) a person who is a relative of the individual or a relative of the spouse of the individual;

(b) a partner of a limited liability partnership, or a limited liability partnership or a partnership firm, in which the individual is a partner;

(c) a person who is a trustee of a trust in which the beneficiary of the trust includes the individual, or the terms of the trust confers a power on the trustee which may be exercised for the benefit of the individual;

(d) a private company in which the individual is a director and holds along with his relatives, more than two per cent. of its share capital;

(e) a public company in which the individual is a director and holds along with relatives, more than two per cent. of its paid-up share capital;

(f) a body corporate whose board of directors, managing director or manager, in the ordinary course of business, acts on the advice, directions or instructions of the individual;

(g) a limited liability partnership or a partnership firm whose partners or employees in the ordinary course of business, act on the advice, directions or instructions of the individual;

(h) a person on whose advice, directions or instructions, the individual is accustomed to act;

(i) a company, where the individual or the individual along with its related party, own more than fifty per cent. of the share capital of the company or controls the appointment of the board of directors of the company.

*Explanation.*—For the purposes of this clause,—

(a) "relative", with reference to any person, means anyone who is related to another, in the following manner, namely:—

- (i) members of a Hindu Undivided Family,
- (ii) husband,
- (iii) wife,
- (iv) father,
- (v) mother,
- (vi) son,
- (vii) daughter,
- (viii) son's daughter and son,
- (ix) daughter's daughter and son,
- (x) grandson's daughter and son,
- (xi) granddaughter's daughter and son,
- (xii) brother,
- (xiii) sister,
- (xiv) brother's son and daughter,
- (xv) sister's son and daughter,
- (xvi) father's father and mother,
- (xvii) mother's father and mother,
- (xviii) father's brother and sister,
- (xix) mother's brother and sister, and

(b) wherever the relation is that of a son, daughter, sister or brother, their spouses shall also be included;'

Amendment  
of section 7.

**4.** In section 7 of the principal Act, in sub-section (1), for the words "other financial creditors", the words "other financial creditors, or any other person on behalf of the financial creditor, as may be notified by the Central Government," shall be substituted.

Amendment  
of section 8.

**5.** In section 8 of the principal Act,—

(a) in sub-section (2),—

(i) in clause (a), for the words "if any, and", the words "if any, or" shall be substituted;

(ii) in clause (b), for the word "repayment", the word "payment" shall be substituted;

(b) in the *Explanation*, for the word "repayment", the word "payment" shall be substituted.

**6. In section 9 of the principal Act,—**

Amendment  
of section 9.

(a) in sub-section (3),—

(i) in clause (c), for the words "by the corporate debtor; and", the words "by the corporate debtor, if available;" shall be substituted;

(ii) for clause (d), the following clauses shall be substituted, namely:—

"(d) a copy of any record with information utility confirming that there is no payment of an unpaid operational debt by the corporate debtor, if available; and

(e) any other proof confirming that there is no payment of an unpaid operational debt by the corporate debtor or such other information, as may be prescribed.";

(b) in sub-section (5),—

(A) in clause (i), in sub-clause (b), for the word "repayment", the word "payment" shall be substituted;

(B) in clause (ii), in sub-clause (b), for the word "repayment", the word "payment" shall be substituted.

**7. In section 10 of the principal Act,—**

Amendment  
of section 10.

(a) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The corporate applicant shall, along with the application, furnish—

(a) the information relating to its books of account and such other documents for such period as may be specified;

(b) the information relating to the resolution professional proposed to be appointed as an interim resolution professional; and

(c) the special resolution passed by shareholders of the corporate debtor or the resolution passed by at least three-fourth of the total number of partners of the corporate debtor, as the case may be, approving filing of the application.";

(b) in sub-section (4),—

(i) in clause (a), after the words "if it is complete", the words "and no disciplinary proceeding is pending against the proposed resolution professional" shall be inserted;

(ii) in clause (b), after the words "if it is incomplete", the words "or any disciplinary proceeding is pending against the proposed resolution professional" shall be inserted.

**8. In section 12 of the principal Act, in sub-section (2), for the word "seventy-five", the word "sixty-six" shall be substituted.**

Amendment  
of section 12.

**9. After section 12 of the principal Act, the following section shall be inserted, namely:—**

Insertion of  
new section  
12A.

"12A. The Adjudicating Authority may allow the withdrawal of application admitted under section 7 or section 9 or section 10, on an application made by the applicant with the approval of ninety per cent. voting share of the committee of creditors, in such manner as may be specified."

Withdrawal of  
application  
admitted  
under section  
7, 9 or 10.



Amendment  
of section 14.

**10.** In section 14 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The provisions of sub-section (1) shall not apply to—

(a) such transaction as may be notified by the Central Government in consultation with any financial regulator;

(b) a surety in a contract of guarantee to a corporate debtor."

Amendment  
of section 15.

**11.** In section 15 of the principal Act, in sub-section (1), in clause (c), for the word "claims", the words "claims, as may be specified" shall be substituted.

Amendment  
of section 16.

**12.** In section 16 of the principal Act, in sub-section (5), for the words "shall not exceed thirty days from date of his appointment", the words and figures "shall continue till the date of appointment of the resolution professional under section 22" shall be substituted.

Amendment  
of section 17.

**13.** In section 17 of the principal Act, in sub-section (2),—

(i) in clause (d), for the words "may be specified.", the words "may be specified; and" shall be substituted;

(ii) after clause (d), the following clause shall be inserted, namely:—

"(e) be responsible for complying with the requirements under any law for the time being in force on behalf of the corporate debtor."

Amendment  
of section 18.

**14.** In section 18 of the principal Act, in the *Explanation*, for the word "sub-section", the word "section" shall be substituted.

Amendment  
of section 21.

**15.** In section 21 of the principal Act,—

(i) in sub-section (2),—

(a) in the proviso, for the words "related party to whom a corporate debtor owes a financial debt", the words, brackets, figures and letter "financial creditor or the authorised representative of the financial creditor referred to in sub-section (6) or sub-section (6A) or sub-section (5) of section 24, if it is a related party of the corporate debtor," shall be substituted;

(b) after the proviso, the following proviso shall be inserted, namely:—

"Provided further that the first proviso shall not apply to a financial creditor, regulated by a financial sector regulator, if it is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares, prior to the insolvency commencement date.";

(ii) in sub-section (3), for the word "Where", the words, brackets, figures and letter "Subject to sub-sections (6) and (6A), where" shall be substituted;

(iii) in sub-section (6), in the opening portion, the words "or issued as securities" shall be omitted;

(iv) after sub-section (6), the following sub-sections shall be inserted, namely:—

"(6A) Where a financial debt—

(a) is in the form of securities or deposits and the terms of the financial debt provide for appointment of a trustee or agent to act as authorised representative for all the financial creditors, such trustee or agent shall act on behalf of such financial creditors;

(b) is owed to a class of creditors exceeding the number as may be specified, other than the creditors covered under clause (a) or sub-section (6), the interim resolution professional shall make an application to the Adjudicating Authority along with the list of all financial creditors, containing the name of an insolvency professional, other than the interim resolution professional, to act as their authorised representative who shall be appointed by the Adjudicating Authority prior to the first meeting of the committee of creditors;

(c) is represented by a guardian, executor or administrator, such person shall act as authorised representative on behalf of such financial creditors,

and such authorised representative under clause (a) or clause (b) or clause (c) shall attend the meetings of the committee of creditors, and vote on behalf of each financial creditor to the extent of his voting share.

(6B) The remuneration payable to the authorised representative—

(i) under clauses (a) and (c) of sub-section (6A), if any, shall be as per the terms of the financial debt or the relevant documentation; and

(ii) under clause (b) of sub-section (6A) shall be as specified which shall form part of the insolvency resolution process costs.";

(v) for sub-sections (7) and (8), the following sub-sections shall be substituted, namely:—

"(7) The Board may specify the manner of voting and the determining of the voting share in respect of financial debts covered under sub-sections (6) and (6A).

(8) Save as otherwise provided in this Code, all decisions of the committee of creditors shall be taken by a vote of not less than fifty-one per cent. of voting share of the financial creditors:

Provided that where a corporate debtor does not have any financial creditors, the committee of creditors shall be constituted and shall comprise of such persons to exercise such functions in such manner as may be specified."

**16.** In section 22 of the principal Act,—

Amendment of  
section 22.

(a) in sub-section (2), for the word, "seventy-five", the word "sixty-six" shall be substituted;

(b) in sub-section (3),—

(i) in clause (a), after the words "resolution professional", the words "subject to a written consent from the interim resolution professional in the specified form" shall be inserted;

(ii) in clause (b), after the words "appointment of the proposed resolution professional", the words "along with a written consent from the proposed resolution professional in the specified form" shall be inserted.

**17.** In section 23 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:—

Amendment  
of section 23.

"Provided that the resolution professional shall, if the resolution plan under sub-section (6) of section 30 has been submitted, continue to manage the

operations of the corporate debtor after the expiry of the corporate insolvency resolution process period until an order is passed by the Adjudicating Authority under section 31."

Amendment  
of section 24.

**18.** In section 24 of the principal Act,—

(i) in sub-section (3), in clause (a), for the words "Committee of creditors", the words, brackets, figures and letter "committee of creditors, including the authorised representatives referred to in sub-sections (6) and (6A) of section 21 and sub-section (5)" shall be substituted;

(ii) in sub-section (5), for the words "Any creditor", the words, brackets, figures and letters "Subject to sub-sections (6), (6A) and (6B) of section 21, any creditor" shall be substituted.

Insertion of  
new section  
25A.

Rights and  
duties of  
authorised  
representative  
of financial  
creditors.

**19.** After section 25 of the principal Act, the following section shall be inserted, namely:—

'25A. (1) The authorised representative under sub-section (6) or sub-section (6A) of section 21 or sub-section (5) of section 24 shall have the right to participate and vote in meetings of the committee of creditors on behalf of the financial creditor he represents in accordance with the prior voting instructions of such creditors obtained through physical or electronic means.

(2) It shall be the duty of the authorised representative to circulate the agenda and minutes of the meeting of the committee of creditors to the financial creditor he represents.

(3) The authorised representative shall not act against the interest of the financial creditor he represents and shall always act in accordance with their prior instructions:

Provided that if the authorised representative represents several financial creditors, then he shall cast his vote in respect of each financial creditor in accordance with instructions received from each financial creditor, to the extent of his voting share:

Provided further that if any financial creditor does not give prior instructions through physical or electronic means, the authorised representative shall abstain from voting on behalf of such creditor.

(4) The authorised representative shall file with the committee of creditors any instructions received by way of physical or electronic means, from the financial creditor he represents, for voting in accordance therewith, to ensure that the appropriate voting instructions of the financial creditor he represents is correctly recorded by the interim resolution professional or resolution professional, as the case may be.

*Explanation.*—For the purposes of this section, the "electronic means" shall be such as may be specified.'

Amendment  
of section 27.

**20.** In section 27 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The committee of creditors may, at a meeting, by a vote of sixty-six per cent. of voting shares, resolve to replace the resolution professional appointed under section 22 with another resolution professional, subject to a written consent from the proposed resolution professional in the specified form."

Amendment  
of section 28.

**21.** In section 28 of the principal Act, in sub-section (3), for the word, "seventy-five", the word "sixty-six" shall be substituted.

**22. In section 29A of the principal Act,—**Amendment  
of section  
29A.

(i) in clause (c),—

(A) for the words "has an account," the words "at the time of submission of the resolution plan has an account," shall be substituted;

(B) after the words and figures "the Banking Regulation Act, 1949", the words "or the guidelines of a financial sector regulator issued under any other law for the time being in force," shall be inserted;

(C) after the proviso, the following shall be inserted, namely:—

'Provided further that nothing in this clause shall apply to a resolution applicant where such applicant is a financial entity and is not a related party to the corporate debtor.

*Explanation I.*—For the purposes of this proviso, the expression "related party" shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares, prior to the insolvency commencement date.

*Explanation II.*—For the purposes of this clause, where a resolution applicant has an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as non-performing asset and such account was acquired pursuant to a prior resolution plan approved under this Code, then, the provisions of this clause shall not apply to such resolution applicant for a period of three years from the date of approval of such resolution plan by the Adjudicating Authority under this Code;';

(ii) for clause (d), the following clause shall be substituted, namely:—

"(d) has been convicted for any offence punishable with imprisonment—

(i) for two years or more under any Act specified under the Twelfth Schedule; or

(ii) for seven years or more under any other law for the time being in force:

Provided that this clause shall not apply to a person after the expiry of a period of two years from the date of his release from imprisonment:

Provided further that this clause shall not apply in relation to a connected person referred to in clause (iii) of *Explanation I*;

(iii) in clause (e), the following proviso shall be inserted, namely:—

"Provided that this clause shall not apply in relation to a connected person referred to in clause (iii) of *Explanation I*;

(iv) in clause (g), the following proviso shall be inserted, namely:—

"Provided that this clause shall not apply if a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place prior to the acquisition of the corporate debtor by the resolution applicant pursuant to a resolution plan approved under this Code or pursuant to a scheme or

plan approved by a financial sector regulator or a court, and such resolution applicant has not otherwise contributed to the preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction;";

(v) in clause (h),—

(A) for the words "an enforceable guarantee", the words "a guarantee" shall be substituted;

(B) after the words "under this Code", the words "and such guarantee has been invoked by the creditor and remains unpaid in full or part" shall be inserted;

(vi) in clause (i), for the words "has been", the word "is" shall be substituted;

(vii) the *Explanation* occurring after clause (j) shall be numbered as *Explanation I*, and in *Explanation I* as so numbered, for the proviso, the following provisos shall be substituted, namely:—

'Provided that nothing in clause (iii) of *Explanation I* shall apply to a resolution applicant where such applicant is a financial entity and is not a related party of the corporate debtor:

Provided further that the expression "related party" shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares, prior to the insolvency commencement date;'

(viii) after *Explanation I* as so numbered, the following *Explanation* shall be inserted, namely:—

*Explanation II.*—For the purposes of this section, "financial entity" shall mean the following entities which meet such criteria or conditions as the Central Government may, in consultation with the financial sector regulator, notify in this behalf, namely:—

(a) a scheduled bank;

(b) any entity regulated by a foreign central bank or a securities market regulator or other financial sector regulator of a jurisdiction outside India which jurisdiction is compliant with the Financial Action Task Force Standards and is a signatory to the International Organisation of Securities Commissions Multilateral Memorandum of Understanding;

(c) any investment vehicle, registered foreign institutional investor, registered foreign portfolio investor or a foreign venture capital investor, where the terms shall have the meaning assigned to them in regulation 2 of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 made under the Foreign Exchange Management Act, 1999;

42 of 1999.

(d) an asset reconstruction company registered with the Reserve Bank of India under section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

54 of 2002.

(e) an Alternate Investment Fund registered with the Securities and Exchange Board of India;

(f) such categories of persons as may be notified by the Central Government.'

**23. In section 30 of the principal Act,—**Amendment  
of section 30.

(i) in sub-section (1), after the words "resolution plan", the words, figures and letter "along with an affidavit stating that he is eligible under section 29A" shall be inserted;

(ii) in sub-section (2),—

(A) in clauses (a) and (b), for the word "repayment" at both the places where it occurs, the word "payment" shall be substituted;

(B) after clause (f), the following *Explanation* shall be inserted, namely:—

18 of 2013.

*"Explanation.—*For the purposes of clause (e), if any approval of shareholders is required under the Companies Act, 2013 or any other law for the time being in force for the implementation of actions under the resolution plan, such approval shall be deemed to have been given and it shall not be a contravention of that Act or law."

(iii) in sub-section (4),—

(a) for the word "seventy-five", the word "sixty-six" shall be substituted;

(b) after the third proviso, the following proviso shall be inserted, namely:—

ord. 6 of 2018.

"Provided also that the eligibility criteria in section 29A as amended by the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018 shall apply to the resolution applicant who has not submitted resolution plan as on the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018."

**24. In section 31 of the principal Act,—**Amendment  
of section 31.

(a) in sub-section (1), the following proviso shall be inserted, namely:—

"Provided that the Adjudicating Authority shall, before passing an order for approval of resolution plan under this sub-section, satisfy that the resolution plan has provisions for its effective implementation.";

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) The resolution applicant shall, pursuant to the resolution plan approved under sub-section (1), obtain the necessary approval required under any law for the time being in force within a period of one year from the date of approval of the resolution plan by the Adjudicating Authority under sub-section (1) or within such period as provided for in such law, whichever is later:

12 of 2003.

Provided that where the resolution plan contains a provision for combination, as referred to in section 5 of the Competition Act, 2002, the resolution applicant shall obtain the approval of the Competition Commission of India under that Act prior to the approval of such resolution plan by the committee of creditors."

**25. In section 33 of the principal Act, in sub-section (2), after the words "decision of the committee of creditors", the words "approved by not less than sixty-six per cent. of the voting share" shall be inserted.**

Amendment  
of section 33.

Amendment  
of section 34.

**26.** In section 34 of the principal Act,—

(a) in sub-section (1), for the words and figures "Chapter II shall", the words and figures "Chapter II shall, subject to submission of a written consent by the resolution professional to the Adjudicatory Authority in specified form," shall be substituted;

(b) in sub-section (4),—

(i) in clause (b), for the words "in writing", the words "in writing; or" shall be substituted;

(ii) after clause (b), the following clause shall be inserted, namely:—

"(c) the resolution professional fails to submit written consent under sub-section (1).";

(c) in sub-section (5), for the word, brackets and letter "clause (a)", the words, brackets and letters "clauses (a) and (c)" shall be substituted;

(d) in sub-section (6), after the words "another insolvency professional", the words "along with written consent from the insolvency professional in the specified form," shall be inserted.

Amendment  
of section 42.

**27.** In section 42 of the principal Act, after the words "of the liquidator", the words "accepting or" shall be inserted.

Amendment  
of section 45.

**28.** In section 45 of the principal Act, in sub-section (1), the words and figures "of section 43" shall be omitted.

Amendment  
of section 60.

**29.** In section 60 of the principal Act,—

(a) in sub-section (2), for the words "bankruptcy of a personal guarantor of such corporate debtor", the words "liquidation or bankruptcy of a corporate guarantor or personal guarantor, as the case may be, of such corporate debtor" shall be substituted;

(b) in sub-section (3), for the words "bankruptcy proceeding of a personal guarantor of the corporate debtor", the words "liquidation or bankruptcy proceeding of a corporate guarantor or personal guarantor, as the case may be, of the corporate debtor" shall be substituted.

Amendment  
of section 69.

**30.** In section 69 of the principal Act, for the words "On or after the insolvency commencement date, if", the word "If" shall be substituted.

Amendment  
of section 76.

**31.** In section 76 of the principal Act,—

(a) in the marginal heading, for the word "repayment", the word "payment" shall be substituted;

(b) in clause (a), for the word "repayment", the word "payment" shall be substituted.

Amendment  
of section  
196.

**32.** In section 196 of the principal Act, in sub-section (1),—

(i) after clause (a), the following clause shall be inserted namely:—

"(aa) promote the development of, and regulate, the working and practices of, insolvency professionals, insolvency professional agencies and information utilities and other institutions, in furtherance of the purposes of this Code;";

(ii) in clause (c), for the words "for the registration", the words "for carrying out the purposes of this Code, including fee for registration and renewal" shall be substituted.



**33.** In section 231 of the principal Act, for the words "Adjudicating Authority" at both the places where they occur, the words "Adjudicating Authority or the Board" shall be substituted.

Amendment of section 231.

**34.** After section 238 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 238A.  
Limitation.

36 of 1963.

"238A. The provisions of the Limitation Act, 1963 shall, as far as may be, apply to the proceedings or appeals before the Adjudicating Authority, the National Company Law Appellate Tribunal, the Debt Recovery Tribunal or the Debt Recovery Appellate Tribunal, as the case may be."

**35.** In section 239 of the principal Act, in sub-section (2), after clause (e), the following clause shall be inserted, namely:—

Amendment of section 239.

"(ea) other proof confirming that there is no payment of an unpaid operational debt by the corporate debtor or such other information under clause (e) of sub-section (3) of section 9;"

**36.** In section 240 of the principal Act, in sub-section (2),—

Amendment of section 240.

(i) clause (g) shall be omitted;

(ii) after clause (j), the following clause shall be inserted, namely:—

"(ja) the last date for submission of claims under clause (c) of sub-section (1) of section 15;"

(iii) after clause (n), the following clauses shall be inserted, namely:—

"(na) the number of creditors within a class of creditors under clause (b) of sub-section (6A) of section 21;

(nb) the remuneration payable to authorised representative under clause (ii) of the proviso to sub-section (6B) of section 21;

(nc) the manner of voting and determining the voting share in respect of financial debts under sub-section (7) of section 21;"

**37.** After section 240 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 240A.

'240A. (1) Notwithstanding anything to the contrary contained in this Code, the provisions of clauses (c) and (h) of section 29A shall not apply to the resolution applicant in respect of corporate insolvency resolution process of any micro, small and medium enterprises.

Application of this Code to micro, small and medium enterprises.

(2) Subject to sub-section (1), the Central Government may, in the public interest, by notification, direct that any of the provisions of this Code shall—

(a) not apply to micro, small and medium enterprises; or

(b) apply to micro, small and medium enterprises, with such modifications as may be specified in the notification.

(3) A draft of every notification proposed to be issued under sub-section (2), shall be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions.

(4) If both Houses agree in disapproving the issue of notification or both Houses agree in making any modification in the notification, the notification shall not be issued or shall be issued only in such modified form as may be agreed upon by both the Houses, as the case may be.

(5) The period of thirty days referred to in sub-section (3) shall not include any period during which the House referred to in sub-section (4) is prorogued or adjourned for more than four consecutive days.

(6) Every notification issued under this section shall be laid, as soon as may be after it is issued, before each House of Parliament.

*Explanation.*—For the purposes of this section, the expression "micro, small and medium enterprises" means any class or classes of enterprises classified as such under sub-section (1) of section 7 of the Micro, Small and Medium Enterprises Development Act, 2006.'

27 of 2006.

Insertion of  
new Schedule.

**38.** After the Eleventh Schedule to the principal Act, the following Schedule shall be inserted, namely:—

#### "THE TWELFTH SCHEDULE

(See clause (d) of section 29A)

#### ACTS FOR THE PURPOSES OF CLAUSE (d) OF SECTION 29A

- (1) The Foreign Trade (Development and Regulation) Act, 1922 (22 of 1922);
- (2) The Reserve Bank of India Act, 1934 (2 of 1934);
- (3) The Central Excise Act, 1944 (1 of 1944);
- (4) The Prevention of Food Adulteration Act, 1954 (37 of 1954);
- (5) The Essential Commodities Act, 1955 (10 of 1955);
- (6) The Securities Contracts (Regulation) Act, 1956 (42 of 1956);
- (7) The Income-tax Act, 1961 (43 of 1961);
- (8) The Customs Act, 1962 (52 of 1962);
- (9) The Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);
- (10) The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974);
- (11) The Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);
- (12) The Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986);
- (13) The Environment (Protection) Act, 1986 (29 of 1986);
- (14) The Prohibition of Benami Property Transactions Act, 1988 (45 of 1988);
- (15) The Prevention of Corruption Act, 1988 (49 of 1988);
- (16) The Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (17) The Foreign Exchange Management Act, 1999 (42 of 1999);
- (18) The Competition Act, 2002 (12 of 2003);
- (19) The Prevention of Money-laundering Act, 2002 (15 of 2003);
- (20) The Limited Liability Partnership Act, 2008 (6 of 2009);
- (21) The Foreign Contribution (Regulation) Act, 2010 (42 of 2010);
- (22) The Companies Act, 2013 (18 of 2013) or any previous company law;

(23) The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015);

(24) The Insolvency and Bankruptcy Code, 2016 (31 of 2016);

(25) The Central Goods and Services Tax Act, 2017 (12 of 2017) and respective State Acts imposing State goods and services tax;

(26) such other Acts as may be notified by the Central Government.

Every notification issued under this Schedule shall be laid, as soon as may be after it is issued, before each House of Parliament."

**39.** In section 434 of the Companies Act, 2013, [as substituted by paragraph 34 of the Eleventh Schedule to the Insolvency and Bankruptcy Code, 2016], in sub-section (1), in clause (c), after the proviso, the following proviso shall be inserted, namely:—

Amendment  
of section  
434 of Act 18  
of 2013.

"Provided further that any party or parties to any proceedings relating to the winding up of companies pending before the any Court immediately before the commencement of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018, may file an application for transfer of such proceedings and the Court may by order transfer such proceedings to the Tribunal and the proceedings so transferred shall be dealt with by the Tribunal as an application for initiation of corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016."

31 of 2016.

Ord. 6 of  
2018.

**40.** (1) The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018 is hereby repealed.

Repeal and  
savings.

31 of 2016.

(2) Notwithstanding such repeal, anything done or any action taken under the Insolvency and Bankruptcy Code, 2016, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the said Code, as amended by this Act.

## STATEMENT OF OBJECTS AND REASONS

The Insolvency and Bankruptcy Code, 2016 (the Code) was enacted, *inter alia*, to consolidate and amend the laws relating to reorganisation and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner. The provisions relating to insolvency resolution for corporate persons (Part II of the Code), regulation of insolvency professionals, agencies, information utilities and establishment of the Insolvency and Bankruptcy Board of India (the Board) (Part IV of the Code) and Miscellaneous provisions (Part V of the Code) have been brought into force, in phases. Part III of the Code, which deals with insolvency resolution and bankruptcy for individuals and partnership firms is yet to be commenced.

2. During the consideration and passing of the Insolvency and Bankruptcy Code (Amendment) Act, 2018 in Parliament, a consensus had emerged that further fine tuning of the Code would be required. The Government constituted an Insolvency Law Committee (the Committee) to review the functioning and implementation of the Code. The recommendations of the Committee has been examined by the Government and it was accordingly decided to amend the Insolvency and Bankruptcy Code, 2016.

3. Since Parliament was not in session and immediate action was required to be taken, the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018 was promulgated by the President on the 6th day of June, 2018.

4. The Insolvency and Bankruptcy Code (Second Amendment) Bill, 2018 which seeks to replace the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018, *inter alia*, provide for the followings, namely:—

(a) insertion of an explanation under clause (8) of section 5 clarifying that any amount raised from an allottee under a real estate project shall be deemed to be an amount having a commercial effect of borrowing;

(b) substitution of sub-section (3) of section 10 requiring the corporate debtor to furnish along with application for initiation of corporate insolvency resolution process a special resolution passed by the shareholder of the corporate debtor or the resolution passed by at least three-fourth of the total number of partners of the corporate debtor, as the case may be;

(c) insertion of new section 12A for permitting withdrawal of application admitted for initiation of insolvency resolution process by Adjudicating Authority, on an application made by the applicant with the approval of ninety per cent. of voting share of committee of creditors;

(d) amendment of section 14 to clarify that the moratorium shall not apply to a personal guarantor or a corporate guarantor to a corporate debtor;

(e) amendment of section 21 to provide for appointment of authorised representative by financial creditors and to provide for rights and duties of such authorised representative;

(f) amendment of section 29A, *inter alia*, to provide—

(i) that clause (c) relating to non-performing asset shall not apply to a financial entity and to a resolution applicant who has acquired a distressed asset with a non-performing asset account for a period of three years from the date of such acquisition;

(ii) for disqualification of person convicted for any offence specified under the Twelfth Schedule and also to provide that such disqualification shall not apply to a person after the expiry of two years from the date of his release from the imprisonment;

(iii) for exemption from disqualification where any preferential, undervalued, extortionate credit or fraudulent transactions had taken place prior to the acquisition of the corporate debtor by the resolution applicant pursuant;

(g) amendment of section 31 to provide that the resolution applicant shall obtain necessary approval required under any law for the time being in force within the period specified therein;

(h) reduction of voting threshold for various decisions of the committee of creditors to sixty-six per cent. for important decisions and fifty-one per cent. for routine decisions;

(i) amendment of section 196 to widen the scope of functions of the Board to promote the development of, and regulate the working and practices of, certain professionals under the Code;

(j) insertion of new section 238A to provide that the Limitation Act, 1963 shall apply to the proceedings or appeals under the Code;

(k) insertion of a new section 240A by which the application of clauses (c) and (h) of section 29A is exempted for the resolution applicants in respect of corporate insolvency resolution process of micro, small and medium enterprises. It also confers power upon the Central Government to exempt micro, small and medium enterprises in public interest from application of any other provisions of the Code.

5. The notes on clauses explain in detail the various provisions of the Bill.

6. The Bill seeks to achieve the above objectives.

NEW DELHI;  
The 18th July, 2018.

PIYUSH GOYAL.

*Notes on Clauses*

*Clause 1* of the Bill provides for the short title and commencement.

*Clause 2* of the Bill seeks to amend clause (12) of section 3 of the Code which provides for the definition of default by substituting the word "repaid" with "paid" to have a wider and more relevant meaning.

*Clause 3* of the Bill seeks to insert a new clause (5A) in section 5 of the Code to define "corporate guarantor" so as to mean a corporate person who is the surety in a contract of guarantee to a corporate debtor.

It further seeks to insert an *Explanation* in sub-clause (f) of clause (8) to the effect that any amount raised from an allottee under a real estate project shall be deemed to an amount having the commercial effect of a debt and to define the expression "allottee" and "real estate project".

It also seeks to insert a proviso in clause (12) to clarify that where the interim resolution professional is not appointed in the order admitting application for initiation of insolvency resolution process, the insolvency commencement date shall be date on which the interim resolution professional is appointed.

It also seeks to substitute the word "repayment" with "payment" to have a wider and more relevant meaning.

It also seeks to insert new clause (24A) to define "related party" in relation to an individual as the same was not expressly defined in the Code.

*Clause 4* of the Bill seeks to amend sub-section (1) of section 7 to enable the Central Government to notify any other person to file an application on behalf of financial creditor to initiate corporate insolvency resolution process.

*Clause 5* of the Bill seeks to amend sub-section (2) of section 8 to include such disputes which are not pending in a suit or arbitration proceedings besides substituting the word "repayment" with "payment" to have a wider and more relevant meaning.

*Clause 6* of the Bill seeks to amend sub-section (3) of section 9 of the Code to make optional the present mandatory condition of filing certificate from financial institutions maintaining accounts of operational creditor to prove non-payment of operational debt, besides providing other means of proving non-payment of operational debt and in sub-section (5) seeks to substitute the word "repayment" with "payment".

*Clause 7* of the Bill seeks to substitute sub-section (3) of section 10 of the Code to provide for the requirement of special resolution passed by the shareholders of the corporate debtor or resolution passed by at least three-fourth of the total number of partners of the corporate debtor, as the case may be, for initiation of corporate insolvency resolution process by corporate applicant; and further seeks to amend sub-section (4) to provide that the presence or absence of pending disciplinary proceedings against the proposed resolution professional shall be a ground for acceptance or rejection of application for corporate insolvency resolution process filed by the corporate applicant.

*Clause 8* of the Bill seeks to amend sub-section (2) of section 12 of the Code to re-calibrate voting threshold from seventy-five per cent. to sixty-six per cent. for extension of corporate insolvency resolution process period by committee of creditors.

*Clause 9* of the Bill seeks to insert a new section 12A to allow the withdrawal of applications admitted under sections 7, 9 or 10 with the approval of ninety per cent. voting share of the committee of creditors in the manner as specified.

*Clause 10* of the Bill seeks to substitute sub-section (3) of section 14 of the Code to provide that the moratorium shall not apply to a surety in a contract of guarantee to a corporate debtor.

*Clause 11* of the Bill seeks to amend section 15 of the Code to confer power upon the Board to specify the last date for submission of claims.

*Clause 12* of the Bill seeks to amend sub section (5) of section 16 of the Code to allow interim resolution professional to continue till the appointment of the resolution professional.

*Clause 13* of the Bill seeks to amend section 17 of the Code to provide that the interim resolution professional shall be responsible for complying with the statutory requirements under applicable laws while managing the affairs of the corporate debtor.

*Clause 14* of the Bill seeks to amend section 18 of the Code to substitute the word "sub-section" with "section" to correct an error.

*Clause 15* of the Bill seeks to amend section 21 of the Code to provide for a mechanism to allow participation of security holders, deposit holders and all other classes of financial creditors which exceed a certain number, in meetings of committee of creditors through an authorised representative and provides for remuneration payable to such authorised representative; and it further seeks to confer power upon the Board to specify the manner of voting and determining of voting share in respect of financial debts and to provide that all decisions of the committee of creditors, save as otherwise provided, shall be taken by a vote of not less than fifty-one per cent. of voting share of the financial creditors; it also provides that where a corporate debtor does not have any financial creditors, the committee of creditors shall be constituted consisting of such persons and exercise such function in such manner as may be specified.

*Clause 16* of the Bill seeks to amend section 22 of the Code to provide for reduced voting threshold of sixty-six per cent. in place of seventy-five per cent. for obtaining the approval of the committee of creditors for appointment of resolution professional; and further seeks to amend sub-section (3) so as to require a written consent from the interim resolution professional in specified form before his appointment.

*Clause 17* of the Bill seeks to amend section 23 of the Code to provide that the resolution professional shall continue to manage the operations of the corporate debtor after the expiry of corporate insolvency resolution process period until an order has been passed by the Adjudicating Authority under section 31.

*Clause 18* of the Bill seeks to amend section 24 of the Code to provide for serving of notice of meeting by the resolution professional and voting share to authorised representative as provided in section 21.

*Clause 19* of the Bill seeks to insert a new section 25A to provide for rights and duties of authorised representative of financial creditors.

*Clause 20* of the Bill seeks to amend section 27 of the Code to substitute sub-section (2) for enabling the committee of creditors to replace the existing resolution professional with another resolution professional by a vote of sixty-six per cent. of voting share instead of seventy-five per cent., subject to a written consent from the latter.

*Clause 21* of the Bill seeks to amend sub-section (3) of section 28 of the Code to reduce the threshold for voting from seventy-five per cent. to sixty-six per cent. for approval of committee of creditors in respect certain actions provided in sub-section (1) thereof.

*Clause 22* of the Bill seeks to amend section 29A of the Code to provide a carve out for financial entities from being disqualified on account of non-performing asset, exemption for resolution applicant holding an non-performing asset account due to acquisition of a corporate debtor for a period of three years from the date of approval of the prior resolution plan by the Adjudicating Authority, restricting disqualification for conviction to offences



as prescribed in Schedule and disqualification period of two years from date of the release from imprisonment, disqualifications under clauses (d) and (e) shall not be apply to related parties of the resolution applicant, to extend the non-performing asset classification by including any other applicable laws, a carve out for the persons who acquired a corporate debtor under the Code in which preferential, undervalued, fraudulent or extortionate credit transactions had taken place prior to such acquisition provided such person has not contributed to such transaction and a clarification that only guarantors where guarantee has been invoked by the creditor and remains unpaid in full or part by the guarantor are ineligible.

*Clause 23* of the Bill seeks to amend section 30 of the Code to provide that a resolution applicant while submitting its resolution plan shall give an affidavit stating that it is eligible under section 29A. It further seeks to amend sub-section (2) to provide that the resolution plan shall not be in contravention of any law for the time being in force. The explanation is proposed to be inserted to provide that if any approval of shareholders is required under the Companies Act, 2013 or any other law for the time being in force for the implementation of actions under the resolution plan, such approval shall be deemed to have been given and it shall not be a contravention of that Act or law.

*Clause 24* of the Bill seeks to amend section 31 of the Code to provide that the Adjudicating Authority shall, before passing an order for approval of resolution plan satisfy that the resolution plan has provisions for its effective implementation and that the resolution applicant shall obtain the necessary approvals required within a period of one year from the date of approval of the resolution plan by the Adjudicating Authority or within such period as provided for in such law, whichever is later and where it contains a provisions for combination the approval of the Competition Commission of India shall be obtained prior to the approval of resolution plan by the committee of creditors.

*Clause 25* of the Bill seeks to amend section 33 of the Code to provide a reduced threshold from seventy-five per cent. to sixty-six per cent. of voting share for obtaining the approval of the committee of creditors for making an application to the Adjudicating Authority to pass a liquidation order.

*Clause 26* of the Bill seeks to amend section 34 of the Code so as to require a written consent of resolution professional in specified form for appointment as a liquidator.

*Clause 27* of the Bill seeks to amend section 42 of the Code to provide clarity that appeal against the decision of accepting or rejecting of claims by liquidator may be filed before Adjudicating Authority.

*Clause 28* of the Bill seeks to amend section 45 of the Code to omit certain words to bring clarity.

*Clause 29* of the Bill seeks to amend section 60 of the Code to provide that an application relating to the insolvency resolution or liquidation or bankruptcy of a corporate guarantor or personal guarantor, as the case may be, of such corporate debtor whose corporate insolvency resolution process or liquidation proceeding is pending before a National Company Law Tribunal shall be filed before such National Company Law Tribunal. It further provides that an insolvency resolution process or liquidation or bankruptcy proceeding of a corporate guarantor or personal guarantor, as the case may be, of the corporate debtor pending in any court or tribunal shall stand transferred to the Adjudicating Authority dealing with corporate insolvency resolution process or liquidation proceeding of such corporate debtor.

*Clause 30* of the Bill seeks to amend section 69 of the Code to omit certain words to bring clarity.

*Clause 31* of the Bill seeks to amend section 76 of the Code so as to substitute the word "repayment" with "payment" in order to have a clarity.

*Clause 32* of the Bill seeks to amend section 196 of the Code so as to enable the Board to promote the development of and regulate the working and practices of certain professionals and also to levy fees for carrying out the purposes of the Code including the fee for registration and renewal of certain professionals.

*Clause 33* of the Bill seeks to amend section 231 of the Code to insert the word "Board" so as to include the Board within the scope of bar of jurisdiction against certain actions.

*Clause 34* of the Bill seeks to insert a new section 238A to provide that the provisions of the Limitation Act, 1963 shall, as far as may be, apply to the proceedings or appeals before the Adjudicating Authority or the National Company Law Appellate Tribunal, the Debt Recovery Tribunal or the Debt Recovery Appellate Tribunal, as the case may be.

*Clause 35* of the Bill seeks to amend section 239 of the Code so as to provide that the Central Government may make rules for matters relating to other proof confirming that there is no payment of an unpaid operational debt by the corporate or such other information under clause (e) of sub-section (3) of section 9.

*Clause 36* of the Bill seeks to amend section 240 of the Code so as to provide that the Board may make regulations on certain matter provided therein.

*Clause 37* of the Bill seeks to insert a new section 240A to provide that the provisions of clauses (c) and (h) of section 29A shall not apply to the resolution applicant in respect of corporate insolvency resolution process of any micro, small and medium enterprises. It further confers power upon the Central Government to direct by notification in the public interest that any provisions of the Code shall not apply to micro, small and medium enterprises or apply to micro, small and medium enterprises with such modifications as may be specified in the notification.

*Clause 38* of the Bill seeks to insert the Twelfth Schedule to the Code so as to provide a list of certain Acts for the purpose of clause (d) of section 29A, with power to notify other Act for the said purpose. It further requires that every notification issued under this Schedule shall be laid before each House of Parliament.

*Clause 39* of the Bill seeks to amend section 434 of the Companies Act, 2013 (as substituted by the paragraph 34 of the Eleventh Schedule to the Code) to provide that any party or parties to any proceedings relating to the winding up of companies pending before any Court immediately before the commencement of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018, may file an application for transfer of such proceedings and the Court may by order transfer such proceedings to the Tribunal and the proceedings so transferred shall be dealt with by the Tribunal as an application for initiation of corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016.

*Clause 40* of the Bill seeks to repeal the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018 and provides for savings of action under the said Ordinance.

## FINANCIAL MEMORANDUM

The provisions of the Insolvency and Bankruptcy (Second Amendment) Bill, 2018 will not involve any expenditure of recurring or non-recurring nature, on its enactment.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

*Clause 6* of the Bill seeks to amend section 9 of the Code which confers power upon the Central Government to prescribe the other proof of confirming that there is no payment of an unpaid operation debt by the corporate debtor or such other information under clause (e) of sub-section (1) of section 9.

*Clause 9* of the Bill seeks to insert section 12A of the Code to confer power upon the Insolvency and Bankruptcy Board of India (the Board) to specify the manner of withdrawal of application.

*Clause 11* of the Bill seeks to amend clause (c) of sub-section (1) of section 15 of the Code to confer power upon the Board to specify the last date for submission of claims.

*Clause 15* of the Bill seeks to amend section 21 which confers power upon the Board to specify under clause (b) of sub-section (6A) the number of creditors for making a class of creditors; under clause (ii) of sub-section (6B) the remuneration payable to the authorised representative under clause (b) of sub-section (6A); and (C) under sub-section (7) the manner of voting and the determining of the voting share in respect of financial debts covered under sub-sections (6) and (6A).

*Clause 16* of the Bill seeks to amend section 22 which confers power upon the Board to specify the form for obtaining written consent from the interim resolution professional and proposed resolution professional respectively.

*Clause 19* of the Bill seeks to insert section 25A of the Code which confers power upon the Board to specify the electronic means for participation and voting in meeting of committee of creditors by authorised representative on behalf of a financial creditor.

*Clause 20* of the Bill seeks to substitute sub-section (2) of section 27 of the Code to confer power upon the Board to specify the form for obtaining written consent from the proposed resolution professional.

*Clause 26* of the Bill seeks to amend section 34 of the Code to confer power upon the Board to specify the form for obtaining written consent from the resolution professional.

2. The matters in respect of which the rules or regulations may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

*Memorandum explaining the modifications contained in the Bill to replace the  
Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018*

The Insolvency and Bankruptcy Code (Second Amendment) Bill, 2018, which seeks to repeal and replace the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018 (the Ordinance), proposes to make the following modifications apart from modifications of consequential and drafting nature in the provisions contained in the Ordinance, namely:—

(a) in clause 3 of the Bill, in section 5 of the Insolvency and Bankruptcy Code, 2016 (the Code), in clause (12), a proviso is inserted to the effect that where the interim resolution professional is not appointed in the order admitting application under sections 7, 9 or 10, the insolvency commencement date shall be the date on which such interim resolution professional is appointed by the Adjudicating Authority;

(b) in clause 9 of the Bill, in section 12A of the Code, the words "in such manner as may be prescribed" has been substituted by "in such manner as may be specified" enabling the Board to frame regulations for specifying the manner of withdrawal of application admitted under sections 7, 9 or 10;

(c) in clause 15 of the Bill, in item (ii) of sub-section (6B) of section 21 of the Code, the words "which shall be jointly borne by the financial creditors" has been substituted by "shall form part of the insolvency resolution process costs" to simplify the process as there would be huge number of creditors belonging to a class of creditors and unburden the class of creditors from further paying for the cost of interim resolution professional appointed as their authorised representative;

(d) in clause 24 of the Bill, in sub-section (4) of section 31 of the Code, a new proviso is inserted "Provided that where the resolution plan contains a provision for combination as referred to in section 5 of the Competition Act, 2002, the resolution applicant shall obtain the approval of the Competition Commission of India under that Act prior to the approval of such resolution plan by the committee of creditors" so as to clarify that the approval for the combinations from Competition Commission of India has to be obtained prior to the approval of resolution plan by the Adjudicating Authority;

(e) in clause 35 of the Bill, relating to amendment of section 239, clause (fa) of sub-section (1) has been deleted;

(f) in clause 38 of the Bill, relating to the Twelfth Schedule to the Code, after paragraph (26), the words "Every notification issued under this section shall be laid, as soon as may be after it is issued, before each House of Parliament" has been inserted so as to require the Government to lay before Parliament every notification made under the said Schedule.

## BILL NO. 126 OF 2018

*A Bill further to amend the Indian Penal Code, Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012.*

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

1. (1) This Act may be called the Criminal Law (Amendment) Act, 2018.
- (2) It shall be deemed to have come into force on the 21st day of April, 2018.

Short title and  
commencement.

## CHAPTER II

## AMENDMENTS TO THE INDIAN PENAL CODE

Amendment of section 166A.	<p><b>2.</b> In the Indian Penal Code (hereafter in this Chapter referred to as the Penal Code), in section 166A, in clause (c), for the words, figures and letters "section 376B, section 376C, section 376D", the words, figures and letters "section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.</p>	45 of 1860.
Amendment of section 228A.	<p><b>3.</b> In section 228A of the Penal Code, in sub-section (1), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.</p>	
Amendment of section 376.	<p><b>4.</b> In section 376 of the Penal Code,—</p> <p>(a) in sub-section (1), for the words "shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine", the words "shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine" shall be substituted;</p> <p>(b) in sub-section (2), clause (i) shall be omitted;</p> <p>(c) after sub-section (2), the following sub-section shall be inserted, namely:—</p> <p>"(3) Whoever, commits rape on a woman under sixteen years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine:</p> <p>Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:</p> <p>Provided further that any fine imposed under this sub-section shall be paid to the victim."</p>	
Insertion of new section 376AB.	<p><b>5.</b> After section 376A of the Penal Code, the following section shall be inserted, namely:—</p>	
Punishment for rape on woman under twelve years of age.	<p>"376AB. Whoever, commits rape on a woman under twelve years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine or with death:</p> <p>Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:</p> <p>Provided further that any fine imposed under this section shall be paid to the victim."</p>	
Insertion of new sections 376DA and 376DB.	<p><b>6.</b> After section 376D of the Penal Code, the following sections shall be inserted, namely:—</p>	
Punishment for gang rape on woman under sixteen years of age.	<p>"376DA. Where a woman under sixteen years of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine:</p> <p>Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:</p> <p>Provided further that any fine imposed under this section shall be paid to the victim.</p>	



376DB. Where a woman under twelve years of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine, or with death:

Punishment for gang rape on woman under twelve years of age.

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim."

7. In section 376E of the Penal Code, for the word, figures and letter "section 376D", the words, figures and letters "section 376AB or section 376D or section 376DA or section 376DB," shall be substituted.

Amendment of section 376E.

### CHAPTER III

#### AMENDMENTS TO THE INDIAN EVIDENCE ACT, 1872

1 of 1872.

8. In section 53A of the Indian Evidence Act, 1872 (hereafter in this Chapter referred to as the Evidence Act), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

Amendment of section 53A.

9. In section 146 of the Evidence Act, in the proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

Amendment of section 146.

### CHAPTER IV

#### AMENDMENTS TO THE CODE OF CRIMINAL PROCEDURE, 1973

2 of 1974.

10. In the Code of Criminal Procedure, 1973 (hereafter in this Chapter referred to as the Code of Criminal Procedure), in section 26, in clause (a), in the proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

Amendment of section 26.

11. In section 154 of the Code of Criminal Procedure, in sub-section (1),—

Amendment of section 154.

(i) in the first proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB," shall be substituted;

(ii) in the second proviso, in clause (a), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB," shall be substituted.

12. In section 161 of the Code of Criminal Procedure, in sub-section (3), in the second proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

Amendment of section 161.

13. In section 164 of the Code of Criminal Procedure, in sub-section (5A), in clause (a), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

Amendment of section 164.

Amendment of  
section 173.

**14.** In section 173 of the Code of Criminal Procedure,—

(i) in sub-section (1A), for the words "rape of a child may be completed within three months", the words, figures and letters "an offence under sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or 376E of the Indian Penal Code shall be completed within two months" shall be substituted; 45 of 1860.

(ii) in sub-section (2), in clause (i), in sub-clause (h), for the word, figures and letters "sections 376, 376A, 376B, 376C or 376D", the word, figures and letters "sections, 376, 376A, 376AB, 376B, 376C, 376D, 376DA or 376DB" shall be substituted.

Amendment of  
section 197.

**15.** In section 197 of the Code of Criminal Procedure, in sub-section (1), in the *Explanation*, for the words, figures and letters "section 376A, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

Amendment of  
section 309.

**16.** In section 309 of the Code of Criminal Procedure, in sub-section (1), in the proviso, for the words, figures and letters "section 376A, section 376B, section 376C or section 376D of the Indian Penal Code, the inquiry or trial shall, as far as possible," the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA or section 376DB of the Indian Penal Code, the inquiry or trial shall" shall be substituted. 45 of 1860.

Amendment of  
section 327.

**17.** In section 327 of the Code of Criminal Procedure, in sub-section (2), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

Amendment of  
section 357B.

**18.** In section 357B of the Code of Criminal Procedure, for the words, figures and letters "under section 326A or section 376D of the Indian Penal Code", the words, figures and letters "under section 326A, section 376AB, section 376D, section 376DA and section 376DB of the Indian Penal Code" shall be substituted. 45 of 1860.

Amendment of  
section 357C.

**19.** In section 357C of the Code of Criminal Procedure, for the figures and letters "376A, 376B, 376C, 376D", the figures and letters "376A, 376AB, 376B, 376C, 376D, 376DA, 376DB" shall be substituted.

Amendment of  
section 374.

**20.** In section 374 of the Code of Criminal Procedure, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) When an appeal has been filed against a sentence passed under section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code, the appeal shall be disposed of within a period of six months from the date of filing of such appeal." 45 of 1860.

Amendment of  
section 377.

**21.** In section 377 of the Code of Criminal Procedure, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) When an appeal has been filed against a sentence passed under section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code, the appeal shall be disposed of within a period of six months from the date of filing of such appeal." 45 of 1860.

Amendment of  
section 438.

**22.** In section 438 of the Code of Criminal Procedure, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) Nothing in this section shall apply to any case involving the arrest of any person on accusation of having committed an offence under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code." 45 of 1860.

**23.** In section 439 of the Code of Criminal Procedure,—

Amendment of  
section 439.

(a) in sub-section (1), after the first proviso, the following proviso shall be inserted, namely:—

"Provided further that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence triable under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code, give notice of the application for bail to the Public Prosecutor within a period of fifteen days from the date of receipt of the notice of such application.";

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The presence of the informant or any person authorised by him shall be obligatory at the time of hearing of the application for bail to the person under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code."

**24.** In the First Schedule to the Code of Criminal Procedure, under the heading "I.— OFFENCES UNDER THE INDIAN PENAL CODE",—

Amendment of  
First Schedule.

(a) for the entries relating to section 376, the following entries shall be substituted, namely:—

Section	Offence	Punishment	Cognizable or Non-cognizable	Bailable or Non-bailable	By what Court triable
1	2	3	4	5	6
"376	Rape.	Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine.	Cognizable	Non-bailable	Court of Session.
	Rape by a police officer or a public servant or member of armed forces or a person being on the management or on the staff of a jail, remand home or other place of custody or women's or children's institution or by a person on the management or on the staff of a hospital, and rape committed by a person in a position of trust or authority towards the person raped or by a near relative of the person raped.	Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life which shall mean the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.
	Persons committing offence of rape on a woman under sixteen years of age.	Rigorous imprisonment for a term which shall not be less than 20 years but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.";

(b) after the entries relating to section 376A, the following entries shall be inserted, namely:—

1	2	3	4	5	6
"376AB	Person committing an offence of rape on a woman under twelve years of age.	Rigorous imprisonment of not less than 20 years but which may extend to imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine or with death.	Cognizable	Non-bailable	Court of Session.";

(c) after the entries relating to section 376D, the following entries shall be inserted, namely:—

1	2	3	4	5	6
"376DA	Gang rape on a woman under sixteen years of age.	Imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.
376DB	Gang rape on woman under twelve years of age.	Imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine or with death.	Cognizable	Non-bailable	Court of Session."

## CHAPTER V

### AMENDMENT TO THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012

Amendment of section 42 of Act No.32 of 2012.

**25.** In section 42 of the Protection of Children from Sexual Offences Act, 2012, for the figures and letters "376A, 376C, 376D", the figures and letters "376A, 376AB, 376B, 376C, 376D, 376DA, 376DB" shall be substituted.

Repeal and savings.

**26.** (1) The Criminal Law (Amendment) Ordinance, 2018 is hereby repealed.

Ord. No.2 of 2018.

(2) Notwithstanding such repeal, anything done or any action taken under the Indian Penal Code, the Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

45 of 1860.  
1 of 1872.  
2 of 1974.  
32 of 2012.

## STATEMENT OF OBJECTS AND REASONS

Recent incidents of rape and gang rape on women under the age of sixteen years and twelve years have shaken the conscience of the entire Nation. Therefore, the offences of rape and gang rape on woman under the age of sixteen years and twelve years required effective deterrence through legal provisions of more stringent punishment. Some of the incidents in recent years have been marked by increased brutality and violence perpetrated on minor girls. This has fueled demands from various sections of the society to make the penal provisions more stringent and effective, immediate arrest of the accused and ensure speedy trial in such cases.

2. As the Parliament was not in session and immediate action was required to be taken in this regard to make necessary amendments in the Indian Penal Code, Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012, the President promulgated the Criminal Law (Amendment) Ordinance, 2018 on 21st April, 2018.

3. It is, therefore, proposed to introduce the Criminal Law (Amendment) Bill, 2018 to replace the Criminal Law (Amendment) Ordinance, 2018, which, *inter alia*, provides for:—

(a) punishment for the offence of rape from the minimum imprisonment of seven years to ten years, which is extendable to imprisonment for life;

(b) punishment for the offence of rape on a woman under sixteen years of age shall be rigorous imprisonment for a term not less than twenty years but may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and shall also be liable to fine;

(c) punishment for the offence of rape on a woman under twelve years of age shall be rigorous imprisonment for a term not less than twenty years but may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and with fine or with death;

(d) punishment for the offence of gang rape on a woman under sixteen years of age shall be imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and with fine;

(e) punishment for the offence of gang rape on a woman under twelve years of age shall be imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and with fine or with death;

(f) investigation in relation to all rape cases shall be completed within a period of two months from the date on which the information recorded by the officer in charge of the police station;

(g) completion of inquiry or trial relating to the offence of rape, within a period of two months;

(h) dispose of an appeal against a conviction or acquittal in rape cases within a period of six months from the date of filing of the appeal;

(i) the provisions of anticipatory bail shall not be applicable in cases of rape or gang rape of woman under sixteen and twelve years of age;

(j) consequential amendments in the Indian Penal Code, Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012 relating to the cases of rape or gang rape of the

woman below the age of sixteen years and twelve years, repeated offenders, to extend the applicability of compulsory registration of FIRs, fine imposed to be paid to victim, facilitate better recording of evidence and protect the dignity of rape survivor and treatment free of cost in hospitals.

4. The Bill seeks to achieve the above objectives.

NEW DELHI;  
*The 19th July, 2018.*

RAJNATH SINGH.

*Notes on clauses*

*Clause 1.* — This clause seeks to provide for short title and commencement of the Act.

*Clause 2.* — This clause seeks to amend section 166A of the Indian Penal Code so as to insert newly proposed sections 376AB, 376DA and 376DB therein.

*Clause 3.* — This clause seeks to amend section 228A of the Indian Penal Code so as to insert the newly proposed sections 376AB, 376DA and 376DB therein.

*Clause 4.* — This clause seeks to amend section 376 of the Indian Penal Code to enhance the punishment from seven years to ten years provided therein and to insert a new sub-section (3) to provide for punishment for rape on woman under sixteen years of age for a term of twenty years but which may extend to imprisonment for life and with fine.

*Clause 5.* — This clause seeks to insert a new section 376AB in the Indian Penal Code to provide for punishment for rape on woman under twelve years of age for a term of twenty years which may extend to imprisonment for life and with fine or with death.

*Clause 6.* — This clause seeks to insert a new section 376DA in the Indian Penal Code to provide for punishment for gang rape on woman under sixteen years of age, committed in furtherance of common intention, for imprisonment for life and with fine.

It further provides to insert a new section 376DB to provide for punishment for gang rape on woman under twelve years of age, committed in furtherance of common intention for imprisonment for life and with fine or with death.

*Clause 7.* — This clause seeks to amend section 376E of the Indian Penal Code to insert therein the newly proposed sections 376AB, 376DA, and 376 DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 8.* — This clause seeks to amend section 53A of the Indian Evidence Act, 1872 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 9.* — This clause seeks to amend section 146 of the Indian Evidence Act, 1872 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 10.* — This clause seeks to amend section 26 of the Code of Criminal Procedure, 1973 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 11.* — This clause seeks to amend section 154 of the Code of Criminal Procedure, 1973 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 12.* — This clause seeks to amend section 161 of the Code of Criminal Procedure, 1973 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 13.* — This clause seeks to amend section 164 of the Code of Criminal Procedure, 1973 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 14.* — This clause seeks to amend section 173 of the Code of Criminal Procedure, 1973 to provide that the trial of offences under sections 376, 376A, 376AB,



376B, 376C, 376D, 376DA, 376DB, 376E shall be completed within a period of two months.

*Clause 15.* — This clause seeks to amend section 197 of the Code of Criminal Procedure, 1973 so as to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 16.* — This clause seeks to amend section 309 of the Code of Criminal Procedure, 1973 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 17.* — This clause seeks to amend section 327 of the Code of Criminal Procedure, 1973 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 18.* — This clause seeks to amend section 357B of the Code of Criminal Procedure, 1973 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 19.* — This clause seeks to amend section 357C of the Code of Criminal Procedure, 1973 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 20.* — This clause seeks to amend section 374 of the Code of Criminal Procedure, 1973 to insert sub-section (4) therein to provide that appeal against rape offences shall be disposed of within a period of six months from the date of filing of such appeal.

*Clause 21.* — This clause seeks to amend section 377 of the Code of Criminal Procedure, 1973 to insert sub-section (4) therein to provide that appeal against rape offences shall be disposed of within a period of six months from the date of filing of such appeal.

*Clause 22.*— This clause seeks to amend section 438 of the Code of Criminal Procedure, 1973 so as to insert sub-section (4) therein to provide that provisions of this section shall not apply to offences under sub-section (3) of section 376, sections 376AB, 376DA or 376DB of the Indian Penal Code.

*Clause 23.*— This clause seeks to amend section 439 of the Code of Criminal Procedure, 1973 to insert a proviso therein to provide for serving of notice of application of bail relating to offences under sub-section (3) of section 376, section 376A, section 376DA or section 376DB to the Public Prosecutor within a period of fifteen days.

It further seeks to insert sub-section (1A) to make it obligatory for the informant or his authorised person to be present at the time of hearing of an application for bail for offences under sub-section (3) of section 376, section 376A, section 376DA or section 376DB of the Indian Penal Code.

*Clause 24.* — This clause seeks to amend First Schedule of the Code of Criminal Procedure, 1973 which is consequential to the amendments of the Indian Penal Code.

*Clause 25.*— This clause seeks to amend section 42 of the Protection of Children from Sexual Offences Act, 2012 to insert therein the newly proposed sections 376AB, 376DA or 376DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 26.*— This clause seeks to provide for repeal and savings of the Criminal Law (Amendment) Ordinance, 2018.

*Memorandum explaining the modifications contained in the Bill to replace the Criminal Law (Amendment) Ordinance, 2018.*

The Criminal Law (Amendment) Bill, 2018, which seeks to replace the Criminal Law (Amendment) Ordinance, 2018, proposes to make the following modifications apart from the modifications of consequential or drafting nature in the provisions contained in the said Ordinance, namely:—

1. INDIAN PENAL CODE

Insertion of new clause 7 in the Bill to amend section 376E of the Indian Penal Code (punishment for repeat offenders of rape)—‘In section 376E of the Penal Code, for the word, figures and letter “section 376D”, the words, figures and letters “section 376AB or section 376D or section 376DA or section 376DB shall be substituted.”

2. CODE OF CRIMINAL PROCEDURE, 1973

In clause 23 of the Bill, in the First Schedule of the Code of Criminal Procedure under the heading “I.—OFFENCES UNDER THE INDIAN PENAL CODE”—inadvertently the second part under column 3 against section 376 has been omitted. To restore the same, the entire entries against the said section have been substituted.

3. INDIAN EVIDENCE ACT, 1872 — No change.

4. PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012 — No change.

**BILL NO. 123 OF 2018**

*A Bill to amend the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015.*

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title  
and  
commence-  
ment.

**1.** (1) This Act may be called the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Act, 2018.

(2) Save as otherwise provided, it shall be deemed to have come into force on the 3rd day of May, 2018.

4 of 2016.

**2.** In the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (hereinafter referred to as the principal Act), in the long title, after the words "Commercial Courts", the words "Commercial Appellate Courts," shall be inserted.

Amendment  
of long title.

**3.** In section 1 of the principal Act, for sub-section (I), the following sub-section shall be substituted, namely:—

Amendment  
of section 1.

"(I) This Act may be called the Commercial Courts Act, 2015."

**4.** In section 2 of the principal Act, in sub-section (I),—

Amendment  
of section 2.

(I) clause (a) shall be renumbered as clause (aa) thereof, and before clause (aa) as so renumbered, the following clause shall be inserted, namely:—

'(a) "Commercial Appellate Courts" means the Commercial Appellate Courts designated under section 3A;';

(II) in clause (i), for the words "which shall not be less than one crore rupees", the words "which shall not be less than three lakh rupees" shall be substituted.

**5.** In the principal Act, in Chapter II, for the Chapter heading, the following Chapter heading shall be substituted, namely:—

Substitution  
of Chapter  
heading.

"COMMERCIAL COURTS, COMMERCIAL APPELLATE COURTS,  
COMMERCIAL DIVISIONS AND COMMERCIAL APPELLATE DIVISIONS".

**6.** In section 3 of the principal Act,—

Amendment  
of section 3.

(a) in sub-section (I), for the proviso, the following provisos shall be substituted, namely:—

"Provided that with respect to the High Courts having ordinary original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, constitute Commercial Courts at the District Judge level:

Provided further that with respect to a territory over which the High Courts have ordinary original civil jurisdiction, the State Government may, by notification, specify such pecuniary value which shall not be less than three lakh rupees and not more than the pecuniary jurisdiction exercisable by the District Courts, as it may consider necessary.";

(b) after sub-section (I), the following sub-section shall be inserted, namely:—

"(IA) Notwithstanding anything contained in this Act, the State Government may, after consultation with the concerned High Court, by notification, specify such pecuniary value which shall not be less than three lakh rupees or such higher value, for whole or part of the State, as it may consider necessary.";

(c) in sub-section (3),—

(i) for the words "State Government shall", the words "State Government may" shall be substituted;

(ii) for the words "Commercial Court, from amongst the cadre of Higher Judicial Service in the State", the following words shall be substituted, namely:—

"Commercial Court either at the level of District Judge or a court below the level of a District Judge".

Insertion of  
new section  
3A.

7. After section 3 of the principal Act, the following section shall be inserted, namely:—

Designation  
of  
Commercial  
Appellate  
Courts.

"3A. Except the territories over which the High Courts have ordinary original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, designate such number of Commercial Appellate Courts at District Judge level, as it may deem necessary, for the purposes of exercising the jurisdiction and powers conferred on those Courts under this Act."

Amendment  
of section 4.

8. In section 4 of the principal Act, in sub-section (1), for the words "ordinary civil jurisdiction", the words "ordinary original civil jurisdiction" shall be substituted.

Omission of  
section 9.

9. Section 9 of the principal Act shall be omitted.

Amendment  
of section 12.

10. In section 12 of the principal Act, in sub-section (1),—

(i) in clause (c), after the words "Specified Value;", the word "and" shall be inserted;

(ii) in clause (d), the word "and", occurring at the end, shall be omitted;

(iii) clause (e) shall be omitted.

Insertion of  
new Chapter  
IIIA.

11. After Chapter III of the principal Act, the following Chapter shall be inserted, namely:—

### "CHAPTER IIIA

#### PRE-INSTITUTION MEDIATION AND SETTLEMENT

Pre-  
Institution  
Mediation  
and  
Settlement.

12A. (1) A suit, which does not contemplate any urgent interim relief under this Act, shall not be instituted unless the plaintiff exhausts the remedy of pre-institution mediation in accordance with such manner and procedure as may be prescribed by rules made by the Central Government.

(2) The Central Government may, by notification, authorise the Authorities constituted under the Legal Services Authorities Act, 1987, for the purposes of pre-institution mediation. 39 of 1987.

(3) Notwithstanding anything contained in the Legal Services Authorities Act, 1987, the Authority authorised by the Central Government under sub-section (2) shall complete the process of mediation within a period of three months from the date of application made by the plaintiff under sub-section (1): 39 of 1987.

Provided that the period of mediation may be extended for a further period of two months with the consent of the parties:

Provided further that, the period during which the parties remained occupied with the pre-institution mediation, such period shall not be computed for the purpose of limitation under the Limitation Act, 1963. 36 of 1963.

(4) If the parties to the commercial dispute arrive at a settlement, the same shall be reduced into writing and shall be signed by the parties to the dispute and the mediator.

(5) The settlement arrived at under this section shall have the same status and effect as if it is an arbitral award on agreed terms under sub-section (4) of section 30 of the Arbitration and Conciliation Act, 1996." 26 of 1996.

Amendment  
of section 13.

12. In section 13 of the principal Act, for sub-section (1), the following shall be substituted, namely:—

"(I) Any person aggrieved by the judgment or order of a Commercial Court below the level of a District Judge may appeal to the Commercial Appellate Court within a period of sixty days from the date of judgment or order.

(IA) Any person aggrieved by the judgment or order of a Commercial Court at the level of District Judge exercising original civil jurisdiction or, as the case may be, Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of the judgment or order:

Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 as amended by this Act and section 37 of the Arbitration and Conciliation Act, 1996."

5 of 1908.  
26 of 1996.

**13.** In section 14 of the principal Act, for the words "Commercial Appellate Division", the words "Commercial Appellate Court and the Commercial Appellate Division" shall be substituted.

Amendment  
of section 14.

**14.** In section 15 of the principal Act, in sub-section (4), for the words, figures and letter "with Order XIV-A", the words, figures and letter "with Order XV-A" shall be substituted.

Amendment  
of section 15.

**15.** In section 17 of the principal Act, for the words "Commercial Courts" and "Commercial Court", wherever they occur, the words "Commercial Courts, Commercial Appellate Courts" shall be substituted.

Amendment  
of section 17.

**16.** In section 20 of the principal Act, for the words "Commercial Court", the words "Commercial Courts, Commercial Appellate Courts" shall be substituted.

Amendment  
of section 20.

**17.** After section 21 of the principal Act, the following section shall be inserted, namely:—

Insertion of  
new section  
21A.

"21A. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

Power of  
Central  
Government  
to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for or any of the following matters, namely:—

(a) the manner and procedure of pre-institution mediation under sub-section (1) of section 12A;

(b) any other matter which is required to be, or may be, prescribed or in respect of which provision is to be made by rules made by the Central Government.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session, or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

**18.** In the Schedule to the principal Act,—

Amendment  
of Schedule.

(i) in Paragraph 4, in sub-paragraph (D), in item (iv),—

(a) in the opening portion, the words "after the first proviso," shall be omitted;

(b) for the words "Provided further that", the words "Provided that" shall be substituted;

(ii) in Paragraph 11, for the words "Commercial Court", the words "Commercial Court, Commercial Appellate Court" shall be substituted;

(iii) after Paragraph 11, the following shall be inserted and shall be deemed to have been inserted with effect from the 23rd October, 2015, namely:—

‘12. After Appendix H, the following Appendix shall be inserted, namely:—

#### “APPENDIX-I

#### STATEMENT OF TRUTH

(Under First Schedule, Order VI- Rule 15A and Order XI- Rule 3)

I ----- the deponent do hereby solemnly affirm and declare as under:

1. I am the party in the above suit and competent to swear this affidavit.
2. I am sufficiently conversant with the facts of the case and have also examined all relevant documents and records in relation thereto.
3. I say that the statements made in -----paragraphs are true to my knowledge and statements made in -----paragraphs are based on information received which I believe to be correct and statements made in ---paragraphs are based on legal advice.
4. I say that there is no false statement or concealment of any material fact, document or record and I have included information that is according to me, relevant for the present suit.
5. I say that all documents in my power, possession, control or custody, pertaining to the facts and circumstances of the proceedings initiated by me have been disclosed and copies thereof annexed with the plaint, and that I do not have any other documents in my power, possession, control or custody.
6. I say that the above-mentioned pleading comprises of a total of ---- pages, each of which has been duly signed by me.
7. I state that the Annexures hereto are true copies of the documents referred to and relied upon by me.
8. I say that I am aware that for any false statement or concealment, I shall be liable for action taken against me under the law for the time being in force.

Place:

Date:

DEPONENT

#### VERIFICATION

I, ..... do hereby declare that the statements made above are true to my knowledge.

Verified at [place] on this [date]

DEPONENT.".'. .



**19.** Save as otherwise provided, the provisions of this Act shall apply only to cases relating to commercial disputes filed on or after the date of commencement of this Act.

Application of provisions of this Act to cases filed on or after its commencement.

Ordinance 3 of 2018.

**20. (1)** The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Ordinance, 2018 is hereby repealed.

Repeal and savings.

(2) Notwithstanding the repeal of the said Ordinance, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

## STATEMENT OF OBJECTS AND REASONS

The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 was enacted for the constitution of Commercial Courts, Commercial Division and Commercial Appellate Division in the High Courts for adjudicating commercial disputes of specified value and for matters connected therewith or incidental thereto.

2. The global economic environment has since become increasingly competitive and to attract business at international level, India needs to further improve its ranking in the World Bank 'Doing Business Report' which, *inter alia*, considers the dispute resolution environment in the country as one of the parameters for doing business. Further, the tremendous economic development has ushered in enormous commercial activities in the country including foreign direct investments, public private partnership, etc., which has prompted initiating legislative measures for speedy settlement of commercial disputes, widen the scope of the courts to deal with commercial disputes and facilitate ease of doing business. Needless to say that early resolution of commercial disputes of even lesser value creates a positive image amongst the investors about the strong and responsive Indian legal system. It is, therefore, proposed to amend the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015.

3. As Parliament was not in session and immediate action was required to be taken to make necessary amendments in the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015, to further improve India's ranking in the 'Doing Business Report', the President promulgated the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Ordinance, 2018 on 3rd May, 2018.

4. It is proposed to introduce the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Bill, 2018 to replace the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Ordinance, 2018, which *inter alia*, provides for the following namely:—

(i) to reduce the specified value of commercial disputes from the existing one crore rupees to three lakh rupees, and to enable the parties to approach the lowest level of subordinate courts for speedy resolution of commercial disputes;

(ii) to enable the State Governments, with respect to the High Courts having ordinary original civil jurisdiction, to constitute commercial courts at District Judge level and to specify such pecuniary value of commercial disputes which shall not be less than three lakh rupees and not more than the pecuniary jurisdiction of the district courts;

(iii) to enable the State Governments, except the territories over which the High Courts have ordinary original civil jurisdiction, to designate such number of Commercial Appellate Courts at district judge level to exercise the appellate jurisdiction over the commercial courts below the district judge level;

(iv) to enable the State Governments to specify such pecuniary value of a commercial dispute which shall not be less than three lakh rupees or such higher value, for the whole or part of the State; and

(v) to provide for compulsory mediation before institution of a suit, where no urgent interim relief is contemplated and for this purpose, to introduce the Pre-Institution Mediation and Settlement Mechanism and to enable the

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Central Government to authorise the authorities constituted under the Legal Services Authorities Act, 1987 for this purpose.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;  
*The 17th July, 2018.*

RAVISHANKAR PRASAD.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill proposes to insert a new Chapter IIIA relating to Pre-Institution Mediation and Settlement. Sub-section (1) of proposed section 12A provides the manner and procedure for Pre-Institution mediation to be prescribed by the Central Government.

2. Clause 17 of the Bill proposes to insert a new section 21A, which relates to power of the Central Government to make rules and laying formula.

3. The matters in respect of which rules may be made under the aforesaid provisions are matters of procedure and administrative details and it is not practical to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

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SNEHLATA SHRIVASTAVA  
*Secretary General*